COURT OR ARBITRATOR ? .. .. .. p. 152
SUMMARY JUDGMENT UNDER ORDER 14a p. 153

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The Solicitors' Journal

VOL. LXXIX. **Saturday, March 2, 1935.** No. 9

Current Topics: The Lord Chancellor and Law Reform — King's Bench Business: Further Evidence — Sir George Bonner's Suggestions—Law Society on Poor Persons Procedure —The Housing Bill: Landlord's Responsibilities—Further Consideration in Committee—Police Work—Executors and Beneficiaries — The Royal Mail Steam Packet Company —Recent Decisions 149

Court or Arbitrator 152

Sales of Legal Estates by a Constructive Trustee 152

Summary Judgment under Order 14a 153

Company Law and Practice 154

A Conveyancer's Diary 155

Landlord and Tenant Notebook .. 156

Our County Court Letter 157

Land and Estate Topics 158

Reviews 158

Books Received 158

Points in Practice 159

To-day and Yesterday 160

Obituary 161

Notes of Cases—

In re Yagerphone Limited 162

Rex *v.* Trustees of Executive Board of Midland (Amalgamated) District (Coal Mines) Scheme, 1930; *Ex parte* Manvers Main Collieries, Limited 162

Dawson *v.* Spaul 162

Maris and Another *v.* The London Assurance 163

Table of Cases previously reported in current volume 163

Correspondence 163

Parliamentary News 164

Societies 164

Rules and Orders 167

Legal Notes and News 167

Court Papers 168

Stock Exchange Prices of certain Trustee Securities 168

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Current Topics.

The Lord Chancellor and Law Reform.

In a speech delivered last week the Lord Chancellor referred once again to the all-absorbing topic of law reform, a matter which, as we all know, he has deeply at heart, and to which he has devoted his energies more zealously and more effectively than any other recent occupant of the Woolsack. While it is true, as he pointed out, that it is not so much the substance of the law that is at fault as its slow-moving and costly procedure, there is nevertheless much remaining on the statute book which might well be removed. Many years ago the late F. W. Maitland said that one of the primary functions of a legislature is to sweep into the dustbin the rubbish that inevitably accumulates in the course of legal history, but our legislature cannot be said in the past to have adequately performed this scavenger's task. Now, through the initiative of the Lord Chancellor, that task is being embarked upon as, for example, in the consideration by the Law Revision Committee of the expediency of retaining the famous, or perhaps it should rather be called the infamous, Statute of Frauds, which in its actual operation has given occasion to countless law suits involving enormous cost. Many more anachronistic statutes might well be, as Maitland put it, swept into the dustbin, and Parliament should take a further hint from the same writer when he said that while it goes about with its spud digging up a plaintain here and there it should drop a little sulphuric acid into the hole. A further reform, not mentioned in his speech last week, but to which the Lord Chancellor, then Lord Justice Sankey, called attention some years ago in a lecture delivered before the University of London, is greater care in the preparation of statutes. "A little extra time and trouble in drafting," he said, "if the draftsman were given a free hand, would save much expense, much delay and much waste of judicial time." This may be said to be a truism, yet, as someone well said, there is nothing so much needed in these days as the rejuvenescence of the commonplace. But while we recognise the defects in our legal system and the need for their removal, we may all whole-heartedly echo the words of the Lord Chancellor when he said that "amid the shifting sands and cross-currents of public life the law is like a great rock on which men may set their feet and be safe."

King's Bench Business: Further Evidence.

Giving evidence before the Royal Commission on the Dispatch of Business at Common Law on the 21st inst., Master Romer indicated in the course of the memorandum he submitted that his office—King's Coroner and Attorney and Master of the Crown Office—carried with it by statute the office of Registrar of the Court of Criminal Appeal. Two initial difficulties were pointed to in regard to the reform of the planning of judicial arrangements and lists: first, the judicial machine has an extremely bad "load factor," because the circuits are not spread evenly round the year; and, secondly, the units of the machine are human, and if attention is not given to personalty the machine will not work properly. The witness intimated that the Court of Criminal Appeal was a constant source of trouble and anxiety in the light of the ideal of fixing a certain date for trial. Its interference with King's Bench business by requiring three judges and being given precedence was alluded to, as was also the untrustworthiness of estimates of the time likely to be taken by criminal appeals. A court planned to take less than a day would extend, perhaps, to two days, or a list might break down early. From Master Romer's viewpoint the New Procedure List makes the arrangements of the whole rota more difficult, demanding, as it does, two judges. If enough judges, it was said, were provided to keep each list running continuously for a substantial time, there would be no arrears in the list; but then at times some judges would have no work to do. If the minimum number of judges were provided so that they were always busy, it was impossible to continue any one list without constant interruption, and arrears then accumulated. It was suggested that London and circuit associates should be pooled and that arrangements should be made for taking shorthand notes of the judgments in the Court of Criminal Appeal. The former proposal was also made by Sir George Bonner, the principal points of whose evidence are set out below.

Sir George Bonner's Suggestions.

The memorandum submitted by Sir George Bonner, senior Master of the King's Bench Division, last Tuesday, set twenty-one judges in addition to the Lord Chief Justice as probably the minimum number required. The occasional unemployment for a few days in the year of one or two judges was regarded as a trivial matter compared to the relief given litigants by more expeditious methods of disposal of the lists. Further extension of the jurisdiction of the county courts was not favoured, but an enlargement of the Masters' powers by conferring upon them compulsory powers of reference was advocated. These powers, it was urged, might usefully be exercised in three directions: in cases which would otherwise

be remitted for trial to the Metropolitan County Courts or to County Courts in the Home Counties, in simple cases under Ord. XIV, where these at present would be placed in the short cause list, and, with certain limitations, in cases on a summons for directions if it was clear that the issue was short and simple. The possible necessity for the appointment of one or more additional Masters as a result of the adoption of the foregoing suggestion was recognised. The exceptions under Ord. LIV, r. 12, relating to the jurisdiction of the Masters would have to be, and should, the witness stated, be, re-considered. In reference to the existing five separate lists for trial of ordinary common law actions, it was proposed that these lists, short cause list, speedy trial list and new procedure list should be combined into one with the possible retention of the term " New Procedure." The division of the legal year into three terms with fixed dates (the Easter and Whitsuntide vacations being thrown into one) was also suggested, while the adoption of a system whereby costs would be assessed at a lump sum (thus avoiding the expense of the preparation and delivery of a bill of costs and taxation) was cited as calculated to be of great benefit both to litigants and the legal profession. One of the most important proposals was the appointment of a class of Official Commissioners on every circuit or (alternatively) groups of counties, with duties similar to those of the Recorder of London. These Commissioners, who might be called County or District Recorders, would take all the ordinary criminal cases, the Assize judges' lists being confined to capital crimes and other heavy cases placed therein by arrangement between judge and the County Recorders. As possible corollaries to the adoption of this scheme, such Recorders were envisaged as becoming permanent judicial officers in their respective districts and as dealing also with civil causes, the Assize judge only attending as his list might require.

Law Society on Poor Persons Procedure.

WHILST no doubt the ninth report of The Law Society on Poor Persons Procedure has already received the attention of the majority of our readers, nevertheless, certain of its more important features ought perhaps to be mentioned here. With regard to the jurisdiction of the district registries in matrimonial causes it is suggested that the time has arrived to consider not only the possibility of giving jurisdiction in all poor persons matrimonial causes to every registry and providing for the trial of poor persons and undefended matrimonial causes in every circuit town, but also in defended matrimonial causes, if the means of the parties is not above a moderate increase of the limit of means fixed by the Poor Persons Rules. It is suggested that a " higher income " certificate entitling its holder to file his petition in the registry, apart from any question of whether the cause would or would not be defended, might meet hard border-line cases. Such a certificate, while not freeing its holder from liability to pay ordinary court fees and solicitor's costs, would enable him to avoid the additional expense involved in instituting proceedings in London. The Council of The Law Society intimates its desire to appeal very urgently to London solicitors to take a larger share in poor persons' work. Apart from London it has, it appears, been possible to obtain at least sufficient assistance in the conduct of proceedings. There is again a general increase in the number of persons assisted. Reports from the various centres show that the committees are being appealed to more in regard to police and county court proceedings, and that advice has been given although such matters are not within the scope of the rules. It appears that fewer attempts than usual have been made to mislead the committees during the past year. Mention should also be made of the new Poor Persons Rules which came into force on 1st January, 1935, and were made in accordance with various recommendations of Sir BOYD MERRIMAN'S committee.

The Housing Bill: Landlords' Responsibilities.

AMONG matters raised before the Standing Committee of the House of Commons which is considering the Housing Bill may be mentioned the responsibility thrown upon a landlord by cl. 3 (1), which provides that the occupier or the landlord of a dwelling-house causing or permitting it to be overcrowded after the appointed day shall be guilty of an offence, etc. Objection taken on the ground that the clause put the local authority in a position to insist that the landlord should take proceedings to prevent overcrowding and that the authority itself should do so if it desired was met by the statement of the Minister of Health that if the provisions against overcrowding were to be effective, it was essential that the landlord should be brought in as an interested party. The question of concurrent responsibility will be considered by the Minister before the Report stage. Sub-clause (4) (*b*) of the same clause, which places responsibility upon a landlord letting a house after the appointed day with reasonable cause to believe it will become overcrowded, was also considered to be essential if the Bill were to be operative. The Minister signified, however, that an addition to the number of criminal offences requires most careful revision, and that the closest attention would be given to the wording of the clause before the Report stage. Clause 7, also, imposes a duty upon a landlord to report overcrowding to the local authority when it comes to his knowledge, but does not impose upon him any obligation to make inquiries.

Further Consideration in Committee.

AT a further sitting of the Committee the Minister intimated that he would look into the question raised as to what would happen with regard to giving notice under cl. 7 when the local authority itself was the landlord. Would, it was asked, the authority write a notice to itself and appear in court both to prosecute and defend itself? With regard to the enforcement of statutory obligations when a local authority is the landlord, the Minister of Health referred to the power conferred upon him by the Bill to step in and fulfil obligations not performed by local authorities. Dealing with cl. 9, which imposes upon local authorities a duty to enforce the provisions of the Bill, Sir HILTON indicated that after consultation with the Solicitor-General he had decided that there should be a provision for the prosecution, but only with the fiat of the Attorney-General, of a local authority which allowed overcrowding in its own houses. Clause 11 defines dwelling-house as " any premises used as a separate dwelling by members of the working classes or of a type suitable for such use." In answer to Lord WINTERTON, who said there was much overcrowding in houses occupied by what was described as the lower middle class, the Minister intimated that the definition was applicable thereto. Lord WINTERTON, however, who thought the Bill ought to apply to overcrowding anywhere, was not satisfied with the explanation and said that he would endeavour to have it raised in the House on the Report stage.

Police Work.

THE report of Major-General Sir LLEWELLYN W. ATCHERLEY, H.M. Inspector of Constabulary, for the year ended September, 1934, contains a number of important facts and suggestions with regard to the police. The need for increased staffs of clerical assistants qualified to deal with the numerous and complicated Acts of Parliament, Regulations and Orders, is stressed in the report. Another point of importance with regard to the duties of the constabulary is that recent additions to those duties, particularly with regard to the enforcement of the Road Traffic Acts and the Regulations made thereunder have had the effect of smothering or crowding out the primary duties in greater or lesser degree, especially in areas where the police strength is sparsely distributed. The Inspector advocates the strengthening of motor patrols as well as greater co-operation among the smaller forces. In a report

on the Western District, Lt.-Col. W. D. ALLAN makes some interesting observations on juvenile crime. In one city 31 per cent. of the persons proceeded against for indictable offences in 1933 were under 16. Forty-five per cent. of persons involved in breaking in were under 16. Lt.-Col. ALLAN recommends more liberal use of the birch rod, a restricted use of probation and the suspension of terms of imprisonment so as to enable defendants to cancel the conviction by good behaviour. With regard to road traffic Lt.-Col. ALLAN suggests more mobile patrols, and a greater use of dummies to divide and guide streams of traffic at suitable intersections. Houses in well-defined areas should be built at some distance from the main road in order to reduce the number of accidents to pedestrians, and to assist the police in the protection of property.

Executors and Beneficiaries.

A RECENT correspondent to *The Times* raises an interesting and, in its way, an important question regarding the duties of executors towards the beneficiaries under a will. The practice of reading the will after the funeral is stated to be obviously open to objection, but "probably better than the state of things to which it has given place." It is pointed out that, through the executors' neglect to give them notice, the beneficiaries are ignorant of the benefits to which they are entitled until the former choose to obtain a grant of probate, and even then the will is not searched by persons who have no reason to suppose that they are beneficiaries. A suggestion is made that the law be altered so that it should be obligatory upon executors "to apprise the beneficiaries within, say, one month of the death, of the benefits conferred upon them," and that all executors of small estates should be obliged to apply for a grant of probate within a period of, say, three months of the death, or such other time as the court may direct. The hardship, to which the letter alludes, occasioned by non-disclosure of a benefit at an early date, is undoubtedly often very real—cases may readily be imagined in which a professional or business career might well have been saved by knowledge of the existence of a legacy, etc.—and early information is often particularly desirable when a person is given a choice of say one from a number of objects. We doubt, however, whether the matter is one for legislation. Obvious difficulties would arise in the case of large estates or where settlements with vested or contingent remainders were created by the will, or again, in cases of a large number of, possibly rival, testamentary instruments. If executors were placed under a legal obligation to supply copious information of this character, it is doubtful if many would be found willing to discharge an office already involving sufficiently onerous duties. Moreover, in cases of small pecuniary legacies, to which the suggested practice seems particularly apposite, the information thus imparted would only, in ordinary circumstances, precede by a sufficiently short space of time the distribution of the legacy, while the information itself would, necessarily, be conditional in character, dependent, that is, upon the sufficiency of the estate to meet debts, death duties, prior gifts, etc. Notwithstanding the foregoing difficulties we incline to the view that the imparting of early information in appropriate cases should be regarded as good practice and one to be generally adopted.

The Royal Mail Steam Packet Company.

THE scheme put forward and sanctioned by the court under s. 153 of the Companies Act 1929 to deal with the unfortunate position of the Royal Mail Steam Packet Co. (*The Times*, 22nd February) differed entirely from that sanctioned by the court some two years ago. That was an elaborate, but admittedly temporary, effort to repair the structure, and created a moratorium on debenture interest for a period of two years, in the hope that the shipping trade might improve sufficiently to enable the directors to see whether they might not be able to turn the corner. The moratorium ended on 31st December last, having proved of some value in giving time to look round and see what could be done. It now appeared that it was useless to wait any longer, the only way being to close down the business, and the new scheme transferred the assets of the company discharged from all existing debts and liabilities to a realisation company to be formed with a share and loan capital of £5,300,000—none of it, of course, new money—and eventually to wind up the old company. The first debenture stock would probably be paid off in full, the second debenture stock would get something, a few shillings in the pound, on account of principal, but no interest, while ordinary and preference shares, originally worth £8,000,000, would receive nothing. Unsecured creditors will get very little, the largest, the International Mercantile Marine, receiving 4½d. in the pound on a debt of £2,700,000. Thus will be brought to an end this historic shipping company, which to-day, however, is only a holding company, its ships being vested in subsidiary companies which may eventually have to be wound up. At the same time EVE, J., sanctioned a similar scheme, on a smaller scale, for taking over and realising the assets of Elder Dempster & Co., another holding company, whose debenture stock holders were able to make a much better bargain. In this case the petition was presented under ss. 153 and 154 of the Companies Act, and the company will be dissolved without winding up. The former and older section applies to any company that may be wound up by the court, the latter only to companies formed under the Companies Acts, and therefore not to a chartered company such as the Royal Mail Company.

Recent Decisions.

AMONG recent decisions to which readers' attention may be drawn is that in *Re Coombes: Ex parte Official Receiver* v. *The Trustee* (*The Times*, 20th February), where the question in issue was whether the right of the Trustee in a first bankruptcy to prove in a second bankruptcy was limited to the amount of the debts proved in the first bankruptcy or might include claims and debts not proved therein. The Divisional Court in Bankruptcy made an order covering the amount proved only, but without prejudice to the right of the Official Receiver to amend his proof in the second bankruptcy if and when further debts were admitted by him in the first bankruptcy, but so as not to disturb dividends already paid. The case involved the construction, for the first time, of s. 3 (1) of the Bankruptcy Amendment Act, 1926.

In *Stretch* v. *Sims* (*The Times*, 20th and 21st February), a case heard before TALBOT, J., and a common jury, damages amounting to £25 were awarded for enticing a housemaid to leave the plaintiff's and enter the defendant's service and £250 for a telegram sent by the latter to the former: "E. has resumed her service with us to-day. Please send her possessions and the money you borrowed, also her wages, to ——." The jury found that the telegram was sent for a malicious purpose.

A number of important cases relative to the onus of proof on total loss of a ship by sinking were considered by MACKINNON, J., in *Maris* v. *The London Assurance* (reported at p. 163 of this issue), where it was held that it rested with the plaintiff shipowners to prove that the loss was by a fortuitous, accidental casualty. In the present case there was no evidence of intention to bring about the loss, and judgment was given for the plaintiff, with costs. The ship, which would only have been worth £2,000 to £3,000 on a sale for breaking up, had been insured for a total loss value of £12,000.

In *Rex* v. *Haddon* (*The Times*, 26th February), the prisoner, who about a year previously had been bound over to come up for judgment if called upon and to abstain from repeating statements to the effect that he was the illegitimate son of the late DUKE OF CLARENCE, appealed against a sentence of twelve months' imprisonment in the second division after breach of the recognizance. The application was dismissed, AVORY, J., signifying that the procedure laid down in *Rex* v. *Smith* [1925] 1 K.B. 603, was strictly followed.

Court or Arbitrator?

One of the points—to which it is proposed to limit our inquiry—arising in the recent case of *R. & W. Paul Ltd.* v. *Wheat Commission* mentioned in a "Topic" of our issue of the 26th January and reported a week later (79 Sol. J. 86), was whether a dispute regarding the make-up of "middlings"—residual products of wheat—was a matter for the court or was to be left to arbitration under No. 20 of the Bye-laws made in pursuance of s. 5 of the Wheat Act, 1932. The bye-law is as follows:—

> "Any dispute arising between the Wheat Commission and any other person as to whether any substance is flour . . . shall be referred to the arbitration of such member of the panel of referees appointed for the purpose by the Minister of Agriculture and Fisheries as may be agreed upon by the parties to the dispute or, in default of agreement, nominated by that Minister, and the decision of the referee as to the matter in dispute shall be final."

The bye-law then provides that the Arbitration Act, 1889, shall not apply, and goes on to deal with incidental matters not material to our inquiry. The Wheat Act, 1932, excludes from liability to make quota payments a miller whose output is proved to the satisfaction of the Wheat Commission to consist only of meal for consumption without further manufacture as animal or poultry food. The question therefore arose whether it was for the court or the arbitrator to decide the matter relating to the particular constituency of the food, or, to state the problem generally, what is necessary in order to oust the jurisdiction of the court.

As appears from the judgment of Lord Hanworth in the case in question, there must be a clear expression of intention if a statute is to be regarded as taking away the right of a subject to sue. *Scott* v. *Avery* (1856), 5 H.L. Cas. 811, is usually mentioned in a question of this kind. The first section of the headnote, which will sufficiently indicate its contents and bearing upon our subject, is as follows:—

> "It is a principle of law, that parties cannot by contract oust the courts of their jurisdiction; but any person may covenant that no right of action shall accrue till a third person has decided on any difference that may arise between himself and the other party to the covenant."

In *Horton* v. *Sayer* (1859), 4 H. & N. 643, there was a claim for breach of covenant to raise the amount of coal required by a mining lease. The parties to the lease agreed that all questions which should arise should "be discussed, resolved and finally settled, ended and determined by two indifferent persons, or arbitrators," or the person nominated by them as umpire. The Court of Exchequer held that the arbitration provisions did not constitute a bar to the plaintiff obtaining judgment. "Except for the case of *Scott* v. *Avery*," Pollock, C.B., said, "there could be no doubt about the matter. That case decided that where a covenant makes a sort of condition precedent to the bringing an action for the breach of it, the remedy in the Courts of Westminster Hall cannot be resorted to until the condition precedent is fulfilled. It appears to me that this case is distinguishable from *Scott* v. *Avery*; but it is insufficient to say that, not being governed by *Scott* v. *Avery*, it falls within the rule which has been acted on for above a century, and according to which the superior courts of law cannot be ousted of their jurisdiction by the mere agreement of the parties; or, in other words, that an agreement to refer does not prevent the parties from resorting to a court of law to enforce their rights or redress their wrongs." The learned Chief Baron goes on to refer to covenants, conditions and provisoes, which even before *Scott* v. *Avery* would prevent the parties from maintaining an action until the amount had been ascertained by a third person. It is to be noted also that the Court of Appeal in *Lowther* v. *Clifford* [1927] 1 K.B. 130, did not think that s. 16 of the Agricultural Holdings Act, 1923, was framed in such clear words as to deprive litigants of rights preserved by s. 54 to sue in the King's Courts. An intention to take away the right of a subject to sue must be clearly expressed in the statute in question.

The Wheat Act, moreover, Lord Hanworth indicated, was not of general application, and a person might claim that he was not a grower, miller or wheat importer and therefore not within the Act. This point is illustrated by *Willis* v. *Wells* [1892] 2 Q.B. 225. The Friendly Societies Act, 1875, provides, by s. 22: "Every dispute between a member, or person claiming through a member or under the rules of a registered society, and the society or an officer thereof, shall be decided in the manner directed by the rules of the society." The dispute in question was between the plaintiff and a society of which he had been a member, the plaintiff applying for an injunction to restrain the society, its members and officers, from excluding him—as they had done—from membership of the society. The court held that the Act aforesaid, and certain of the Society's rules which required that disputes between a member and the officers should be decided by justices, applied only to disputes between members and the society and did not extend to such a dispute as that in question, where one had been expelled and sought to be reinstated. In such a matter, it was held, the court had jurisdiction to grant an injunction—which in fact it did. *Prentice* v. *London*, L.R. 10 C.P. 679, was followed. In that case Lindley, J., said: "If the matter in controversy is whether the party is a member or not, that clearly is not a matter of internal arrangement;" while Brett, J., said: "A dispute as to whether a party is a member or not clearly is not a dispute between the society and the plaintiff as a member."

Prentice v. *London* and *Willis* v. *Wells* were followed in *Palliser* v. *Dale* [1897] 1 Q.B. 257, where it was held that s. 10, sub-s. (1), of the Friendly Societies Act, 1895, did not enlarge—so far as the persons to whom it was applicable—the scope of the above-quoted s. 22 of the Act of 1875. "The effect of the earlier decisions," Lord Esher, M.R., said, "really comes to this: that, if the society choose to expel a member, they are estopped from afterwards saying that he is a member, and therefore bound by the provisions of the rules with regard to disputes between the society and a member of it."

Two conclusions follow. In order that the jurisdiction of the court be ousted, the statute invoked must contain a clear expression to this effect, while, in the case of a statute which—albeit public—does not concern the public at large, it is necessary to show that the person sought to be made amenable to arbitration comes within the section of the public for which the Act legislates.

R. & W. Paul Ltd. v. *Wheat Commission* illustrates a double failure in this respect.

Sales of Legal Estates by a Constructive Trustee.

Since the coming into force of the property legislation of 1925 it is sometimes rather loosely assumed that the purchaser of a legal estate in land need not concern himself with the rights of persons entitled in equity, beyond those that appear on an inspection of the charges register, and the rights of covenantees under restrictive covenants entered into before 1926. For, since 1925, it is argued, all legal estates that are not vested in a beneficial owner are vested either in trustees for sale or in some person or persons whose title arises under the Settled Land Act. If so, provided that the requirements of sub-s. (2) of s. 27 of the Law of Property Act, or of sub-s. (1) of s. 94 of the Settled Land Act, are complied with, the purchaser takes free from all overreachable equities and from all unregistered registrable equities, regardless of the persons equitably entitled. In short, it is suggested that the "curtain" principle has ousted the old rule that the equitable

interests are good against all persons save only a *bonâ fide* purchaser of the legal estate who gives value and has not got notice.

Such a statement of the law may possibly supply the practitioner with a rough and ready working rule. But it seems to overlook the case where the legal estate is vested in a constructive trustee. Such land is not settled land ; nor is the constructive trustee a trustee for sale. But, equally, he is not a beneficial owner : for assuming that the fee simple at law is vested in A, the equitable fee is vested in B. Such a case is of fairly frequent occurrence. For example, property purchased with money belonging to a married woman is sometimes conveyed to her husband ; and banks and other such corporations often have the conveyance of property that they have acquired, taken in the name of a director or some other person as a nominee. We will call the nominee A for the present purpose.

Now, when A comes to sell the land, the purchaser either will or will not have notice, whether actual or constructive, of the bank's interest. If the purchaser has no notice, and gives value, his estate will in any event be good against the bank under the familiar rule of equity.

But, in fact, it sometimes happens that the purchaser or his solicitor has actual or constructive notice of the bank's interest. It is true that the solicitor's notice may have been acquired in some other transaction, and will consequently be invalid for the present purpose under sub-s. (1) (ii) (*b*) of s. 199 of the Law of Property Act.

Supposing, however, that the purchaser can be effectively fixed with actual or constructive notice of the bank's interest, that interest will be good against the legal estate unless the bank concurs in the sale. Sub-section (1) of s. 42 of the Law of Property Act plainly does not apply to such a case. The bank does, of course, concur in the great majority of cases, either expressly, or by receiving the purchase money.

But the practitioner must guard his client against all possible contingencies. If, for instance, A conveys to a purchaser without the bank's concurrence, the purchaser having notice of the bank's interest, and A then absconds with the purchase money that he has received, surely the ordinary equitable rule applies, and the bank will be able to enforce its equity against the legal estate in the hands of the unfortunate purchaser. Such an equity does not appear to be registrable under any section of the Land Charges Act, and in consequence the purchaser can look for no protection under sub-s. (1) (i) of s. 199 of the Law of Property Act.

It seems, therefore, that in any case where the purchaser has notice, actual or constructive, of the fact that the vendor of the legal estate holds as nominee, or any other sort of constructive trustee, it will be advisable to obtain the concurrence of the *cestui que trust*, either by making him a party to the conveyance, or by securing his receipt for the purchase money.

It should be observed, in conclusion, that we have confined our remarks to the case where there is a single vendor and a single *cestui que trust*. If either the legal estate or the equity is vested in concurrent owners of any kind, an entirely different set of additional difficulties would arise under the property legislation of 1925.

EXAMINATIONS IN LAW FOR UNARTICLED CLERKS.

A syllabus of a new series of examinations in law for the benefit of unarticled solicitors' clerks has been issued by the Commercial Education Department of the London Chamber of Commerce. The examinations will commence in the spring and the subjects will be as follows : (*a*) Separate Higher Certificates in the principles of English law and the Constitution ; common law ; procedure and law of evidence and torts ; company law and winding up ; Chancery procedure, bankruptcy and partnership and receivership ; real and personal property and conveyancing ; wills and trusts. (*b*) Higher Group Diplomas in common law, Chancery and conveyancing.

Summary Judgment under Order 14A.

ORDER 14A of the Rules of the Supreme Court, under which summary judgment for specific performance of a contract in writing is obtainable, has now been in practice for seven years, but its exact limitations are still a matter of doubt.

It is clear from r. 1 of the order that summary judgment can be asked for in respect of a claim for specific performance of a contract for sale or purchase of property. A question which has recently been raised is whether it applies to a claim for specific performance of an agreement for a lease.

Rule 1 provides that " where the defendant in an action in the Chancery Division has appeared to a writ of summons endorsed with a claim for specific performance of a contract in writing for sale or purchase of property the plaintiff may . . . apply to the judge for an order for specific performance of the contract and for such consequential accounts, enquiries and directions as to payment of purchase money, interest, damages and costs or otherwise as the case may require."

In the absence of any decision of the court on the matter, one is forced to look at the order itself to see whether specific performance of a contract for a lease comes within its limits.

The words in r. 1 expressly confine the summary procedure to contracts in writing for sale or purchase of property. It will be observed that the rule does not confine the procedure to freehold and leasehold property, and hence would relate it to all other kinds of property, such as stocks and shares, goods, etc., etc. So, under Ord. 14A, summary judgment for performance of a contract to sell an oil painting could be applied for, and conceivably the sale of a share in a partnership.

Curiously enough, however, the procedure is confined to contracts for " sale or purchase " of property, and it seems difficult to treat an agreement to grant a lease as a contract for sale or purchase of property. The rule (r. 1) goes on to speak of accounts and enquiries as to payment of *purchase* money as if to emphasise the limitation.

It cannot be said that rent is purchase money, or that a contract to enter into an engagement to pay rent is a contract for purchase. It might be held in the case of a contract for a lease which provided for payment of a premium that the premium was in the nature of purchase money, but this is to strain the meaning of the term. It is obvious that the terms " purchase money " and " premium " have quite separate meanings.

Again, is a contract for the grant of a lease a contract for sale and purchase of *property ?* The sale and purchase of a lease already existing (i.e., the sale and purchase of leasehold property) is clearly within the meaning of the rule. But at the time of the contract for the grant of a lease such lease does not exist ; it is the object of the contract to bring it into existence. It is therefore not property (i.e., property in existence). It might be argued that the property (i.e., the land) to be leased, already exists, but this seems to beggar the point. The property the subject of the contract is not land, but an interest, not yet created, in such land.

It is possible that the authorities when framing Ord. 14A intended to exclude contracts for the grant of a lease from its operation. Clearly the grant of a lease is not such a simple matter as the sale and purchase of land or chattels, as it involves the hammering out of various terms as to repairs, structural alterations, insurance, the right to assign or underlet and so on. It is true that the terms of a lease are usually set out or annexed to the contract, but this is not always the case, and the framers of Ord. 14A may have considered the matter too complex for the simple procedure associated with Ord. 14.

In any event, the strict interpretation of Ord. 14A excludes contracts for the grant of a lease from its benefits, and it would be ill advised to endeavour to obtain summary judgment in respect of such contracts.

Company Law and Practice.

The Duties and Responsibilities of a Chairman.

THIS week I intend to consider some of the responsibilities and duties which attach to the position of chairman of a general meeting of a company. The reality of their existence is well known, and several recent cases have illustrated their importance.

As to the question who can be chairman, s. 115 (1) (*e*) enacts that any member of the Company elected by the members present at a meeting may be chairman thereof, if the articles of the company do not provide otherwise. In the majority of cases they do make other provisions; and if Table A is adopted, by Article 47, the chairman, if any, of the board of directors is to preside as chairman at every general meeting of the company, while Article 48 provides that, if there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present are to choose some one of their number to be chairman.

The primary duties of a chairman are well set out in *National Dwellings Society* v. *Sykes* [1894] 3 Ch. 159, at p. 162, in the words of Chitty, J.: "Unquestionably it is the duty of the chairman, and his function, to preserve order, and to take care that the proceedings are conducted in a proper manner, and that the sense of the meeting is properly ascertained with regard to any question which is properly before the meeting." He also has *prima facie* authority to decide all incidental questions which arise at a general meeting and necessarily require decision at the time; and the entry by him on the minute book of his decision of all such questions although not conclusive, is *prima facie* evidence of the correctness of that decision, and the onus of displacing that evidence is thrown upon those who impeach the entry: *In re Indian Zoedone Company* (1884), 26 Ch. D. 70. Lapse of time may prove a very serious obstacle to successful impeachment of such an entry; this is demonstrated by the case of *Ayre* v. *Skelsey's Adamant Cement Company Limited*, 21 T.L.R. 464. There the plaintiffs claimed (*inter alia*) a declaration that a special resolution passed in 1896 was invalid, and the action was brought in 1903. Romer, L.J., said at p. 466, that the presumption of the resolutions having been properly passed was a very strong one. "The contention that they ought to be upset as invalid must be clearly proved to the satisfaction of the court, and the onus of that proof lay upon the appellants." Vaughan Williams, L.J., observed that in 1896 and 1898 the plaintiffs had a strong case, but that in 1905 (when the matter came before the Court of Appeal), assuming they had a case, it required much stricter proof than would have been required if the action had been brought earlier.

It is usual for resolutions to be proposed and seconded, and then for the question to be put formally to the meeting; but, in the absence of express directions contained in the articles, these first steps are not essential, and the question may be put by the chairman without having been proposed and seconded, or even proposed. The authority relied upon for this statement can be found in the words of James, L.J., in *In re Horbury Bridge Coal, Iron & Waggon Company* (1879), 11 Ch. D. 109, at p. 118: "In my opinion, if the chairman puts the question without its having been either proposed or seconded by anybody, that would be perfectly good." When the time comes for discussion of the subject-matter of the resolution, there are sure to be some voluble talkers, and with these the chairman must use his discretion. There is, it seems, no obligation to give an audience to every speaker who wishes to hear the sound of his own voice, nor can every member claim the right to continue talking indefinitely. It is not competent to the majority, at a shareholders' meeting, to come determined to vote in a particular way on any question and to refuse to hear any arguments to the contrary; but when the views of the minority have been heard, it is competent to the chairman, with the sanction of a vote of the meeting, to declare the discussion closed, and to put the question to the vote: *Wall* v. *London & Northern Assets Corporation* [1898] 2 Ch. 469. The observations of Lindley, M.R., and Chitty, L.J., at pp. 480 and 483 respectively, are illuminating on this point.

A leading authority on the right of the chairman to adjourn the meeting is the case of *Salisbury Gold Mining Co., Ltd.* v. *Hathorn* [1897] A.C. 268. There Article 66 of the company's articles of association read thus: "The Chairman may, with the consent of the members present at any meeting, adjourn the same from time to time and from place to place in Pietermaritzburg." The Privy Council held (*inter alia*) that, upon the true construction of the article, the chairman is not bound to adjourn a meeting, even though a majority of those present desire the adjournment. Lord Herschell said, in the course of the judgment: "If the intention had been that the majority of the members present should have the right to adjourn the meeting whenever they pleased, their lordships think the article would have been differently worded. According to the terms of Article 66, it is the 'chairman' who may adjourn the meeting; it is to be his act, not that of the meeting or of those present at it . . . It provides for the 'consent' of the members present, which implies that the act is not theirs, but his." Article 49 of Table A, which reads: "The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting," etc., is an example of an article giving the majority of members present the right to adjourn the meeting whenever they please. The chairman cannot, however, adjourn it of his own motion: *Salisbury Gold Mining Co., Ltd.* v. *Hathorn, supra*, at p. 275. Any adjournment of a meeting must, of course, be made with the object of assisting and not frustrating the despatch of business. I do not think I can do better than quote, in this connection, the well-expressed opinion of Chitty, J., in *National Dwellings Society* v. *Sykes*, to which I have already referred, as to the chairman's duty in exercising the power of adjournment, and a remedy for its improper use: "But, in my opinion, the power which has been contended for is not within the scope of the authority of the chairman—namely, to stop the meeting at his own will and pleasure. The meeting is called for the particular purposes of the company. According to the constitution of the company, a certain officer has to preside. He presides in reference to the business which is there to be transacted. In my opinion, he cannot say, after that business has been opened, 'I will have no more to do with it; I will not let this meeting proceed; I will stop it; I declare the meeting dissolved, and I leave the chair' . . . that is not within his power. The meeting by itself . . . can resolve to go on with the business for which it has been convened, and appoint a chairman to conduct the business which the other chairman, forgetful of his duty or violating his duty, has tried to stop because the proceedings have taken a turn which he himself does not like."

Equality of votes is a contingency against which articles usually provide, and Table A does so by making the chairman of the meeting, at which the voting takes place, entitled to a second or casting vote, whether the equality results from a show of hands or a poll (Art. 52). The case of *Bland* v. *Buchanan* [1901] 2 K.B. 75, is liable to be overlooked in this connection. It is authority for the proposition that "equality of votes" means equality of valid votes, and the chairman may give a contingent or hypothetical casting vote, to come into operation if in the course of subsequent proceedings it should appear that there has been an equality of valid votes.

I have been able to do little more than indicate the principal points upon which a decision, in some cases a hasty one, may be required in the course of a general meeting, but any discussion of this topic would be incomplete without a brief consideration of s. 117 (3). That section, as my readers will

recollect, provides that at any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. For some time there was considerable doubt as to the meaning of the word " conclusive " in the corresponding section of the 1862 Act, but this point was finally settled by the decision in *Arnot* v. *United African Lands Limited* [1901] 1 Ch. 518, that the declaration of the chairman of a meeting of the shareholders of a company that a special resolution has been carried on a show of hands (a poll not having been demanded) is, at any rate in the absence of fraud, absolutely, and not merely *prima facie*, conclusive of the fact that the resolution has been carried. The court will not, therefore, go behind it by inquiring into the facts. An exception is where the chairman by his declaration finds the figures and erroneously in point of law holds that the resolution has been duly passed (*In re Caratal (New) Mines Ltd.* [1902] 2 Ch. 498). The result there was that the statutory majority had not in fact voted in favour of the resolution; (see also *Clark & Co.* [1911] S.C. 243, Ct. of Sess.). This attribute of conclusiveness does not attach to the chairman's declaration of the result of a poll (*Harben* v. *Phillips*, 23 C.D. 13). Finally, it appears from *Salisbury Gold Mining Co.* v. *Hathorn*, *supra*, that the chairman can, after rejecting a motion for adjournment, declare a provisional agreement specified in the circular convening the meeting to be confirmed; and an incorrect statement by him of the effect of, or of what is intended to be done under, a resolution confirming the agreement will not modify or affect that confirmation.

A Conveyancer's Diary.

Posthumous Child—Whether Surviving Father.

The decision of the House of Lords in *Elliot* v. *Joicey*, *ante* (79 Sol. J. 144), also reported in *The Times* for 15th February, came to me as a surprise.

I suppose that most of us would have said off-hand that a posthumous child was treated for all purposes as having been born in the lifetime of the father, and that such expressions as " born in his lifetime " or " leave him surviving " and so on would extend to include a child *en ventre sa mère* at the death of the father—at any rate, in the construction of a will.

It seems however that there is no such general rule of construction.

A testatrix in exercise of a power of appointment, appointed a trust legacy in trust for her children in equal shares. The testatrix directed that the share of each child should be retained for twenty-one years and the income thereof paid to him or her if he or she should so long live, and if any child should die within the said period his or her share should be held in trust for such person or persons as such child should by will appoint, and in default of appointment (*a*) in the event of such child " leaving issue him or her surviving " in trust for such child absolutely, but (*b*) in the event of such child not " leaving issue him or her surviving " then such share should accrue to the shares of the other children.

The testatrix had three children, all sons, one of whom, T.W.H.E., died within twenty-one years after her death without having exercised his power of appointment, and not having had any child who was actually born at his death, but a month or so afterwards a child was born to him.

The question was whether T.W.H.E. died " leaving issue him surviving." If so, the share settled on him fell into his estate. If not, it passed to his two surviving brothers.

I may shortly refer to some of the authorities before following the course of this action.

In *Trower* v. *Butts* (1823), 1 Sim. & St. 181, there was a bequest to all the children of the testator's nephew B born in the lifetime of the testatrix. Leach, V.C., in his judgment, said: " It is now fully settled that a child *en ventre sa mère* is within the intention of a gift to children living at the death of a testator; not because such a child (and especially in the early stages of conception) can strictly be considered as answering to the description of a child living, but because the potential existence of such a child places it within the reason and motive of the gift."

In *Blasson* v. *Blasson* (1804), 2 De G.J. & Sm. 665, Lord Westbury, whilst approving the decision in *Trower* v. *Butts*, held that the fiction of law by which a child *en ventre sa mère* is treated as actually born applied only for the purpose of enabling him to take a benefit.

Of course in nearly all cases it is for the benefit of the unborn child that it should be considered as having been born before the death of the father, but it so happened in *Blasson* v. *Blasson* that that was not so, but Lord Westbury, invoking the aid of the civil law, placed a limitation on the rule of construction, " the fiction of law," as it was termed in *Blasson* v. *Blasson*, which enabled him to give a decision favourable to the posthumous child. It should be noticed also that the words used in that case were " born and living," not " survive " or " surviving."

A case which turned upon another important point is *Re Burrows* (1895), 2 Ch. 407. There was a devise to A for life and upon her death to B " for her absolute use and benefit in case she had issue living at the death of " A, " but in case she has no issue then living " then over. At the time of the death of A who survived the testator, B was *enciente*, and the following day was delivered of a living child. It was held that B took absolutely, on the ground that it was for the benefit of the child that its mother should take. Hence, on the authority of that case, accepting the limitation laid down by Lord Westbury, it is not necessary that the benefit to the child should be a direct benefit.

Then, there is the most important case of all, *Villar* v. *Gilbey* [1907] A.C. 139.

A testator by his will devised real estate in strict settlement to his brother's first and second sons (who were alive at the date of his will) successively for life, with remainder to their first and other sons in tail, with remainder to his brother's third, fourth and other sons successively in tail, but declared his intention to be that any third or other son born in the testator's lifetime should not take a larger interest than for life only, with remainder to his issue in tail male. The brother's third son was born three weeks after the testator's death. The first and second sons died without issue.

It was held by the House of Lords that the third son took an estate tail, not having been born in the testator's lifetime.

It will be observed that the words employed there were " born in my lifetime " not " who may survive " or " surviving me " and also that it was in that case clearly for the benefit of the posthumous child that it should not be deemed to have been born before the death of the testator.

Lord Loreburn, L.C., treated the matter as one of construction. His lordship said: " It is certain that a child *en ventre sa mère* is protected by law, and may even be a party to an action. Again in computing lives for the purposes of the rule against perpetuities a child *en ventre sa mère* is taken as if it were actually living. And under the old law, which treated a will made before marriage as revoked by marriage and the subsequent birth of a child, it made no difference whether the child was actually born before the father's death or was still *en ventre sa mère* at that time. All this is quite true, but I do not think it helps to establish a rule that the words ' born in my lifetime ' include persons born some weeks or months later. I cannot see what bearing these rules of law have upon the meaning of words used by a testator who can make what dispositions and choose what language

he pleases." And again after referring to the effect of the decisions, his lordship said : " All these cases are valid enough when we are dealing with the words, ' living at the father's death ' but are not helpful except by analogy, when we are dealing with the words ' born during the father's lifetime.' For it does not follow that where courts have attached an unnatural meaning to particular words and thus made them words of art, a like unnatural meaning must be attached to different words, even though their ordinary or natural sense may be similar."

Clearly Lord Loreburn treated the matter as one of construction except that where the words used were, " living at the father's death," the rule applies that the posthumous child must be deemed to have been born in the father's lifetime, but as appears later in his judgment, subject to the limitation that it is for the benefit of the child to adopt that construction.

Now to return to *Elliot* v. *Joicey*.

Clauson, J., held that the expression " issue surviving a parent A B " was not an inapt expression to cover the case of a posthumous child. " It cannot be doubted that the use of the expression to cover such a case as the case before me is quite a possible use of language even if the expression ' survive ' might in the strictest sense involve the actual existence of the survivor as a born human being at the date of the death of the person to be survived . . . and there can be no question that if an expression has a primary meaning in the strictest sense of language but a possible though looser secondary meaning, it is open to the court to adopt the secondary meaning if convinced, as in this case I am convinced, that the adoption of the primary meaning would lead to an absurdity which the author of the document cannot as a reasonable person be supposed to have contemplated."

His lordship also held that if the justification for extending the meaning of such an expression so as to include a posthumous child depended upon such child taking a benefit, he did not see why the principle should be confined narrowly to the case where the child took a direct benefit and why it should apply where there was an indirect benefit, by giving to the parent a benefit which in the ordinary course would be not unlikely to be to the advantage of the child.

I have quoted at this length from the judgment of Clauson, J., because I venture to think that it was right.

The Court of Appeal upheld the decision of Clauson, J., and upon much the same grounds.

Both in the court below and in the Court of Appeal *Villar* v. *Gilbey* was distinguished, the words used there being " born in the testator's lifetime," and in both courts it was held that that case was not an authority for saying that the benefit accruing to the posthumous child must be a direct benefit.

The House of Lords (Lords Tomlin, Russell of Killowen and Macmillan) reversed the decision of the Court of Appeal.

Lord Tomlin said that he concurred in the judgment of Lord Russell, but made some preliminary observations in which he said : " The expression ' leaving any issue him or her surviving ' was not in its ordinary or natural meaning appropriate to a posthumous child, and there was nothing in the context to justify the extension of the meaning." His lordship also said that " he did not think that the enrichment of the parent's estate was a benefit to the child within the meaning of the rule."

Lord Russell, who made the principal speech, reviewed the authorities and relied upon the decision in *Villar* v. *Gilbey*.

His lordship said (I quote from *The Times*) : " There was not, as it happened, any authority precisely covering the event postulated by Mrs. Elliot—namely the death of a parent ' leaving any issue him or her surviving.' The word ' surviving ' however, which in his view, according to its ordinary accepted meaning required that the person who was to survive should be living both at and after a particular point of time, ought to be governed by the same considerations as those which had been applied to the word ' living ' where the event postulated had been that there should be a child living at a particular point of time, e.g., the father's death."

The learned lord also held that the benefit to the posthumous child to be within the law as laid down in *Villar* v. *Gilbey* must be a direct benefit.

I venture to call this an unfortunate decision.

In the first place it seems to me that according to the ordinary and natural meaning of words a posthumous child does " survive " his father and that *Villar* v. *Gilbey* is no authority to the contrary.

I also think that whilst the rule of construction is only, it seems, to be applied where it is for the benefit of the posthumous child, there was no authority prior to *Elliot* v. *Joicey* which decided that such benefit must be a direct benefit. In that case it was clearly, I should have thought, to the benefit of the posthumous child that his father's estate should be enriched, the benefit might be small but some benefit in the ordinary course of things might be expected to accrue to him. Certainly it could not be to his advantage that the funds should go to his uncles. *Villar* v. *Gilbey* did not expressly decide that the benefit must be direct, and it can only be regarded as unfortunate that this further limitation should be imposed upon the rule.

Let us hope that an Act of Parliament will be passed which will put this matter right, for great injustice may result as a consequence of the decision in this case.

Landlord and Tenant Notebook.

Title and County Court Jurisdiction.

" If the [county court] judge has authority to ascertain whether the title really is in question, it is very difficult to define the limit to which his inquiry may go," said Wightman, J., when considering a summons for a writ of prohibition in *Lilley* v. *Harvey* (1848), 17 L.J., Q.B. 357 ; and apart from context, one can readily sympathise, for if parties don't know what they are arguing about, how can the court ?

As to the context, what is now the County Courts Act, 1888, s. 56, provides that a county court, except as provided, " shall not have cognisance of any action of ejectment or in which the title to any corporeal or incorporeal hereditaments shall be in question," and what had happened was that a defendant in a claim for use and occupation had turned up and said the property was his, though he had filed no pleading to that effect. Thereupon the judge had had him sworn, and in answer to questions he had deposed that he had bought the house at an auction. He did not produce a conveyance, nor did he give any particulars of payment. The judge decided that title was not *bonâ fide* put in issue, and as the plaintiff gave evidence that the defendant had paid him rent for the property for some years, proceeded to hear and determine the claim. The Court of Queen's Bench upheld this ruling, but the only definite guidance given was that if an issue of title be raised in pleadings, that would suffice to oust jurisdiction. In the absence of pleadings, a mere assertion might or might not have that effect ; it would become the duty of the county court judge to inquire into the matter, but then each case must depend on circumstances. Those familiar with county court procedure know how often a defendant is allowed to defend though he has been ordered to and has omitted to file a defence. And the statement as to the effect of pleadings is, it will be seen, inconsistent with other authorities.

It is possible for a county court judge to dispose of the matter *via* estoppel, for when in *Wickham* v. *Lee* (1848), 12 Q.B. 521, the defendant set up his own title in answer to four plaints, three for rent and one for ejectment, letters

showing that there was no dispute as to title and admitting the plaintiff's title at the time when the rent claimed accrued due were held to justify the court in proceeding to try the actions.

The period was particularly fruitful of interpretations of the enactment, for in the same year, *Lloyd* v. *Jones* (1848), 6 C.B. 81, if not a landlord and tenant matter, afforded an illustration useful to those dealing with leases and tenancies. The claim was for £1 damages for trespass by fishing in a Welsh salmon stream, the real dispute being between two angling societies. The defendant alleged a custom enuring to the benefit of all the inhabitants of the place where he resided. An issue of great importance to many, no doubt; but in the absence of a hereditament, corporeal or incorporeal, one which the local county court was held competent to try.

The limits of estoppel were illustrated in *Mountjoy* v. *Collier* (1853), 1 E. & B. 630, an action for rent. The defendant had taken the premises from the plaintiff; so much was common ground. The defendant had also paid the first gale of rent to the plaintiff. Then the premises had been claimed by a third party, who gave notice to the defendant not to pay rent to the plaintiff, and notice to the plaintiff to quit this and other property. The plaintiff in fact gave up the other property. The question, then, was only as to the defeat of the title to the hereditament; but this was, as was held, sufficient to oust the jurisdiction of the county court.

The most recent authority on the section is, I think, *Hawkins* v. *Rutter* [1892] 1 Q.B. 668. This was an action for damage done to oyster layings by grounding a barge on them. The jurisdiction was challenged in the county court, and the plaintiff thereupon said he had had the layings for the last fourteen years. The defendant was unable to counter this allegation, and it was held, by the county court, the High Court and by the Divisional Court on an application for a writ of prohibition, that title was not in question. This is an important authority for landlords and tenants as well as for oyster breeders and bargees, for the words "in question" are undoubtedly somewhat liberally construed. There are a good many occasions in which a question of title is involved, and must at least incidentally be decided which might, accordingly, be dealt with in the county court, e.g., an eviction by a landlord alleging forfeiture would undoubtedly lead to an issue of title, technically at all events; but apparently if the tenant sued for breach of covenant of quiet enjoyment and the facts were admitted, the county court would have jurisdiction.

An unreported case, of which an account will be found in *The Times* of 22nd July, 1895, is worth noting. The question of title was raised by the refusal of the taxing master to tax costs in the case of *Howarth* v. *Sutcliffe*, in which the plaintiff, a landlord not in possession, had claimed damages from the occupier of neighbouring premises for tapping a pipe which ran through those premises and which the plaintiff claimed as his. Substantially, the defence was agreement with a former tenant, but 40s. was paid into court and accepted. The judge upheld the master's view, but the Court of Appeal observed that had the action been fought, title must have been in issue; there was no possession by the plaintiff, and the defence was in effect a plea of title based on agreement, the question being whether the agreement bound the plaintiff.

JUDGE ON USE OF FOREIGN TERMS.

Judge Sir Alfred Tobin, K.C., when told at Westminster County Court last Tuesday, says *The Times*, that a "questionnaire" in bankruptcy had been sent to a debtor, exclaimed, "What! Does the Bankruptcy Court use foreign language instead of English?" A solicitor said that "questionnaire" was the name of the form. The Judge replied, "Dear me; English does not seem good enough nowadays! Except a few of us, I think there are no true Englishmen left."

Our County Court Letter.

FRAUDULENT PREFERENCE.

THE principle of *In re Cohen* [1924] 2 Ch. 515, was followed in the recent case of *In re Tunnard* at Boston County Court. The official receiver claimed £101 6s. 7d. as money paid by the bankrupt to his wife within three months of the bankruptcy. The respondent's case was that, having previously lent £130 to the bankrupt in order to carry on his business, she was entitled (as the largest creditor) to any available money. His Honour Judge Langman observed that it was natural for the bankrupt to wish to repay his wife, but the evidence was that, at the time of payment, the debtor was insolvent and in imminent expectation of bankruptcy. It had been held that where a debtor in such circumstances gave preference to a particular creditor, a case of fraudulent preference was established. An order was made accordingly, with costs.

THE SALE OF CIGARETTE MACHINES.

IN the recent case of *National Automatic Machine Co. Ltd. and the Callender Finance Co. Ltd.* v. *Jones* at Corwen County Court, the claim was for £5 as the balance due under a written agreement. The plaintiffs' case was that the defendant had read the agreement before signing it, and, as they had paid their agent's commission on the sale, they had re-delivered the machine, after the defendant had returned it. The defendant's case was that, having paid 25s. as a deposit, he signed a document on the understanding that it was only a receipt for the machine, which he took for a month on trial. His Honour Judge Sir Artemus Jones, K.C., held that the plaintiffs' agent had sold the machine by fraudulent misrepresentation. Judgment was therefore given for the defendant, with costs. It transpired that the purchaser was only allowed three days, under the agreement, in which to make complaints about the machine.

THE ADEQUACY OF PARTICULARS.

IN the recent case of *Central Garage (Boston) Ltd.* v. *Booth* at Boston County Court, the claim was for £93 17s. 10d. for goods sold and work done. His Honour Judge Langman pointed out that the particulars of claim were merely a copy of the ledger, and the three witnesses for the plaintiffs had given no evidence that the goods were actually sold, that orders for repairs were received, that the repairs were carried out, and that the goods and repairs had not been paid for. One item was for £45 due in respect of a lorry, but no hire-purchase agreement was produced, and no evidence had been given, except that certain instalments had been paid. A non-suit was therefore entered, with costs for the defendant.

THE LIABILITIES OF TOFFEE MAKERS.

IN *Hughes* v. *Riley Bros. (Halifax), Ltd.*, recently heard in the Liverpool Court of Passage, the claim was for damages for negligence in the following circumstances: On the 22nd June, 1934, the plaintiff had bought at a shop some rum and butter toffees, as manufactured by the defendants. When eating one, the plaintiff noticed a peculiar taste, and he found that the sweet contained indelible lead, which discoloured the whole of his mouth, whereby he was away from work for five weeks. The defendants' case was that an analysis of the sweet had revealed a waxy substance containing methyl violet—a harmless dye. Reasonable care had been taken in the manufacture of the toffees, which were made at an excellent factory under ideal conditions, the employees being under constant supervision. The daily output of rum and butter toffees was a million, and there had been no previous complaints. Judgment was given for the defendants, with costs. Compare "The Liabilities of Chocolate Makers" in the "County Court Letter" in our issue of the 19th January, 1935 (79 SOL. J. 45).

Land and Estate Topics.

By J. A. MORAN.

While auction sales of real property, just now, are not up to the average that was generally anticipated, the authorities at the London Auction Mart are convinced we are on the eve of a very busy spring season. The chief feature, we are promised, is a big programme of large rural residential estates. Not long ago a great deal was said, and written, about the "neglected mansion," but indications of late point to an increased demand for residences of the kind. This is a healthy sign, as it means that we are making a move forward towards a return of the country squire who made it his business to stand well with his neighbours and improve the resources of his locality. And it is not only the modern up-to-date mansion, and lands, that are in better demand; the tendency also extends to old vacant houses on which the new owners are prepared to spend large sums in way of improvements.

There does not appear to be anything in the nature of a rush for seats to view the coming Jubilee procession. Failures have long memories, and there is every excuse for a policy of "wait and see." Exception, of course, should be allowed for "pitches" like St. Paul's Churchyard, where spectators will see the procession arrive and leave. There the enthusiasts are likely to muster in full strength, and I would not like to speculate on the amount they are prepared to pay for the privilege.

The cost of "seeing the King" on similar occasions, in the olden times, forms a striking contrast to the rule that operates at present. A good view of the Coronation procession of Edward I was had for a farthing, just half as much as the price that prevailed when Edward III was crowned.

A small oil painting, on panel, 10 inches by 9 inches, "A Girl's Head and Shoulders," by Greuze, was sold by auction at Tunbridge Wells, by Messrs. Brackett & Son, for 570 guineas. Seems something like a record for a provincial mart.

In days when the provision of adequate accommodation for the working classes has become one of the prominent questions engaging the attention of the authorities, both in town and country, it seems strange to look back on a time when it was found advisable to curtail the erecting of cottages.

The Act 31 Elizabeth, Cap. VII (1589) was passed "for the avoiding of the great inconveniences which are found by experience to grow by the erecting and building of great numbers and multitude of cottages which are daily more and more increased in many parts of the Realm." It provided that "no person shall make, build or erect, or cause to be made, builded or erected, any manner of cottage for habitation or dwelling, nor convert or ordain any building or housing made or hereafter to be made, to be used as a cottage for habitation or dwelling unless the same person do assign and lay to the same cottage or building *four acres of ground at the least*, to be measured according to the statute of ordinance *de terris measurandis* being his or her freehold or inheritance lying near the said cottage, to be continually occupied and manured therewith so long as the same cottage shall be inhabited, upon pain of a fine of ten pounds."

The London County Council's proposal for the town planning of the whole of the County of London does not meet with the approval of many of our leading surveyors. Asked what effect the planning would have on land valuers in London, Sir Edwin Savill, who speaks with great authority, said no one will be able to value any property in London where the value of the site has to be taken into consideration. It will be impossible, therefore, to make valuations for death duties, which are generally very urgent, or for mortgages or the hundred and one other things which have to be negotiated.

The latest Census of Occupations shows that there are 400 women auctioneers, valuers and appraisers in England and Wales. Yet I can recollect no occasion when a lady asked for a bid at the London Auction Mart.

One of the new King's Counsel is a son of Sir H. Trustram Eve, one of our most distinguished rating surveyors.

Capt. Montagu Evans, M.C., chartered surveyor, has taken into partnership his son (Montagu Basil). The name of the firm in future will be Montagu Evans & Son. My congratulations to both.

Reviews.

Famous Trials. By the First Earl of Birkenhead, P.C., G.C.S.I., D.L., Lord Chancellor of England, 1919-1922. Demy 8vo. pp. 567. London: Hutchinson & Co. (Publishers), Ltd. 3s. 6d. net.

The late Lord Birkenhead's two collections of *causes célèbres*, so justly praised when they originally appeared, are now published together in an inexpensive "omnibus" which enables the lay reader to travel, conducted by one of the most acute legal minds of modern times, between points so remote as the trial of Joan of Arc and the trial of Mrs. Thompson. Such figures as Colonel Blood, Spencer Cowper, William Cobbett, the guilty, the innocent and the excusable succeed one another in these pages in a series of vivid portraits, in the most dramatic of all possible settings—the dock. In a few matters of detail, this edition could have been improved. Certain references might well have been brought up to date. For instance, in the *Casement Case*, Mr. Bodkin is still described as "now Sir Archibald Bodkin, the Public Prosecutor." Again, the illustrations might have been distributed somewhat more relevantly. It is disconcerting to find Bacon in the middle of Ethel Le Neve's trial, and the Duchess of Kingston in the account of the *Bywaters Case*. However, such minor imperfections are hardly worth mentioning when there is so much to approve.

Whitaker's Almanack, 1935. London: J. Whitaker & Sons, Ltd. 6s. net.

The 1935 edition of "Whitaker's Almanack" is the sixty-seventh of the series. It contains nearly 1,000 pages of facts and figures on every subject, and is as indispensable in the office as ever. The new edition, which has been revised up to the time of going to press, includes additions to the pages dealing with Scots law and several new statistical tables of general interest. The Almanack is also obtainable in a paper cover edition, containing about 700 pages, price 3s.

Who's Who, 1935. Demy 8vo. pp. l and 3,694. London: A. & C. Black, Ltd. 60s. net.

The 1935 edition of "Who's Who," which is the eighty-seventh of the series, contains brief biographies of over 40,000 distinguished contemporaries. Since the publication of the 1934 edition approximately 1,500 new names have been added and more than 1,000 have been deleted on account of death. "Who's Who" has a world-wide reputation for accuracy and authenticity, and we learn that every biography in the book was submitted to its subject for revision before copies were printed. This indispensable volume is well bound in buckram, and may also be obtained in leather-backed binding for 63s.

Books Received.

Lectures and Transactions of the Incorporated Accountants' Students' Society of London and District for the Year 1933-34. Demy 8vo. pp. xiii and 231. London: Incorporated Accountants' Students' Society. 3s. 6d. net.

Student's Note-book of the Elementary Principles of Commercial Law. By John D. Berbiers, M.A., LL.B., L.-ès-L. 1935. pp. (with index) 80. London: Macmillan & Co., Ltd. 3s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Solicitor-Executor—Power reserved to—No Charging Clause in Will—Costs.

Q. 3134. The deceased by his will appointed AB and CD (solicitor) his executors. The will did not contain the usual solicitors' charging clause. AB proved the will, CD did not prove, but reserved a right to do so. CD acted as solicitor to the trust and has now delivered his bill of costs. Your comment is asked as to whether CD, having been appointed executor and not having proved the will, but having acted as solicitor for the proving executor, is entitled to charge for his services.

A. We do not think that the solicitor can properly charge for his services. It was held in *Robinson* v. *Pett* (1734), 3 P.W. 132 (*a*), that a solicitor who had taken the more extreme step of actual renunciation could not make his charges. We quote the following from the judgment of Talbot, C., in that case: "The defendant's renouncing the executorship is not material, because he is still at liberty, whenever he pleases, to accept the executorship. . . . And if this were to make any difference, it would be an art practised by executors to get themselves out of this rule, which I take to be a reasonable one, and to have long prevailed." It is to be observed that a renunciation cannot now-a-days be retracted (A. of E.A., 1925, s. 5) except in certain special cases. The principle, however, clearly applies in a case where power is reserved, for a grant can be obtained.

Will—Construction—Gift to a Class after Prior Life Interest—Period of Vesting.

Q. 3135. A testator, who died in the year 1881, devised and bequeathed all his real and personal estate to which he should be entitled at the time of his decease "Unto and to the use of my wife A to be held by her for and during her natural life if she shall so long continue my widow and from and immediately after her decease or second marriage whichever shall first happen I give devise and bequeath all my real and personal estate aforesaid unto and to the use of all my children share and share alike as tenants in common." The testator died leaving his widow and seven children surviving. The widow died in the year 1891, and two of the testator's seven children died in her lifetime intestate and unmarried. It has been contended that the testator's estate became divisible among his five surviving children in equal shares, and that the two deceased children took no interest in the estate (see *Re Miles; Miles* v. *Miles* (1889), 61 L.T. 359, in which reference is made to the rule that, where the period of distribution was the death of the tenant for life and the gift was among a class of persons, then the share of one dying in the lifetime of the tenant for life went over). On the other hand, the authorities appear to show that, in the case of members of a class taking under a postponed gift, the death of any of them who has survived the testator, but before the period of distribution, does not defeat his interest. We should be glad if you would let us know whether, in your opinion, the testator's estate on the death of the tenant for life became divisible among the five children then living, or whether the seven children of the testator acquired vested interests on his death, so that on the death of the two children in the lifetime of the tenant for life, their one-seventh shares of the real estate passed to their eldest brother as heir at law.

A. "In the case of a simple devise to persons *in esse* or to a class, whether it be or be not preceded by a previous life-interest given to someone else, such of the persons or class as survive the testator acquire a vested interest, which becomes transmissible to their representatives, although in the latter case put, they may die during the existence of the previous tenancy for life." We quote the above from "Tudor's Leading Cases on Real Property, etc.," 4th ed., pp. 451 and 452, where the authority cited for the rule is *Maddison* v. *Chapman*, 4 K. & J. 709; 3 De G. & J. 536. So far then as the estate consisted of realty, it appears clear that all seven children took vested interests upon the death of the testator, which vested interests would pass as under their wills or intestacies. The same principle seems to apply in the case of so much of the estate as is personalty. "According to the view at present taken by the court, the rule is, that a devise or bequest to children as a class, distributable at the death of some other person, vests in all children in existence at the death of the testator; the gift, however, opening so as to let in such after-born children, if any, as may come into existence before the period of distribution" (Sir W. Page Wood, V.-C., in *Browne* v. *Hammond*, Johns. 212, *n.*).

Sheriff's Possession Fees.

Q. 3136. Is a sheriff who has levied under a *fi. fa.* entitled to charge 8s. 6d. a day possession money when his officer only keeps "walking" instead of "close" possession of the goods? The table of fees says: "For man, or when necessary, men in possession, to provide his or their own board in every case per man per day . . . 8s. 6d." *Lumsden* v. *Burnett* [1898] decided that a collector distraining for income tax could not, while in constructive possession alone, charge for a "man in possession," except by agreement with the parties.

A. The term "walking" possession is not officially recognised, we are informed by a leading firm of sheriffs' officers. The sheriff's officer is either in possession or else he is not. If he is, then he is entitled to 8s. 6d. per diem for the man in possession, and if he likes to take the risk of allowing that man to be absent from the premises, then that is his concern. The case cited is inapplicable, for there was no sheriff's man in possession in that case, so that there was no right to a possession fee.

Ownership of Strayed Sheep.

Q. 3137. A's sheep strayed to B's farm. A made enquiries of B on two occasions as to whether four sheep had strayed on his land. He was assured by B that there were no stray sheep on his land and that he had 15 sheep in a field which A could examine and that there were no more sheep on any other part of his land. A in consequence of information he received saw B again and repeated his enquiries. B said most emphatically he had no stray sheep on his land. A found 4 sheep on B's land which were hobbled. B admitted that he had hobbled them. B was committed to Quarter Sessions on the charge of stealing four sheep. Should B be indicted for larceny of sheep by finding? Please let me know what were the facts in the following case: *Rex* v. *Matthews*, 37 J.P. 596; 28 L.T. 645.

A. The facts of *Rex* v. *Matthews*, 37 J.P. 596, were as follows: M found two heifers straying and put them with his own in a marsh to graze, but soon learned that they were H's heifers,

and had strayed from other marshes. M afterwards sent these heifers a long distance as his own, and afterwards denied that he knew where they were. The jury, on trial of indictment, found that M had reasonable expectation that the owner could be found, but that he did not intend to steal them till after he had taken possession of them, and that he sent them away at last with a view to appropriate them. On a case stated, the Court for Crown Cases Reserved held that M could not be convicted either of larceny or of larceny as a bailee. In the case put, the case for the prosecution depends upon whether B appropriated A's sheep with felonious intent. In spite of the contradictory finding of the jury, in the above case, B should be indicted for larceny by finding.

Motorist's Liability for Hospital Expenses.

Q. 3138. Miss A died in August last as a result of severe injuries sustained in a motor accident after being an in-patient in hospital for a period of fourteen days. Negligence on the part of the car driver is admitted. The estate of the deceased has suffered approximately £80 for hospital and specialists' fees and funeral expenses. Kindly advise the extent of the application of the Law Reform Miscellaneous Provisions Act, 1934 (24 and 25 Geo. 5, Chap. 41) in regard to the following: (A) whether the sum of £80 is recoverable by the deceased's personal representative for the benefit of her estate; (B) whether an action for damages for personal injuries survives to the personal representative, and if so, could any information be supplied as how such damages might be assessed.

A. (A) The sum of £80 is recoverable under the Law Reform (Miscellaneous Provisions) Act, 1934, s. 1 (2) (c).

(B) In view of the death of Miss A, any damages for personal injuries are incapable of assessment. In any case they would be difficult to distinguish (in the circumstances) from exemplary damages, which are irrecoverable under s. 1 (2) (a).

Motorist's Liability for Damage.

Q. 3139. A's car is damaged in a road collision. Is A entitled to claim expenses incurred through non-user of the car until such time as the car is repaired fit for user, in particular bearing in mind the fact that A does not intend to give any instructions for repairing of the car until he hears that B is prepared to admit liability for same? Is it not A's business to get the car repaired as soon as possible? Also, is A entitled to recover proportionate loss of insurance premium and tax during non-user of the car?

A. It is the duty of a plaintiff to mitigate the damages, and A ought therefore to have had the car repaired as soon as possible, as suggested in the question. The heads of damage mentioned are not items of special damage, but compensation therefor is recoverable under the heading of general damages. In other words, the latter should be assessed at such a figure as will include the proportion of premium and tax thrown away.

Verbal Charge upon Furniture.

Q. 3140. Early this year A lent B £—. For certain good reasons A did not insist upon B executing a bill of sale as security, but in the presence of two responsible witnesses and relying upon the decision in *London & Yorkshire Bank* v. *White* (1895), T.L.R., vol. II, p. 570, A took a verbal charge over certain of the contents of B's house. If B defaults in repaying the loan on demand, does the decision in the above-mentioned case in your opinion enable A to remove the said contents of B's house?

A. Under the quoted decision the verbal charge constituted an equitable assignment of certain of the contents of B's house. There is no evidence, however, that A was to be entitled to possession of the articles, and—under the same decision—there is no right of removal. A must therefore apply to the court for the enforcement of his lien, e.g., by an order for sale.

To-day and Yesterday.

LEGAL CALENDAR.

25 FEBRUARY.—"My dear friends, it is rather unusual for a clergyman to address his congregation after service, but there are two well-known pickpockets in this chapel and therefore be careful." Imagine the consternation of a respectable young curate staying with his father at Brighton to cure his sciatica when he realised that these words spoken by the officiating clergyman at the Chapel Royal were aimed at himself and his parent. The result was the case of *Moore* v. *Drummond*, heard in the Common Pleas on the 25th February, 1843. Serjeant Talfourd, for the plaintiff, accused the defendant of lack of Christian charity, and Sir Thomas Wilde, on the other side, retorted that it was the plaintiff who lacked charity in bringing an action, despite a public apology. The verdict was 40s. damages.

26 FEBRUARY.—On the 26th February, 1857, William Graham, a poacher, was indicted at the Carlisle Assizes for the murder of a gamekeeper. One night the deceased, a bold and determined young man, who had been a poacher himself, went out to investigate some shooting by the banks of the Eden. He never returned, and was found thrown in the river with his head battered in. The prisoner admitted the killing, but said that the keeper had first fired a pistol at him. He was convicted of manslaughter and Mr. Baron Martin sentenced him to transportation for life.

27 FEBRUARY.—Lord Cardigan, the future hero of the charge of the Light Brigade, twice came into public contact with the law, in 1841, when his peers acquitted him of shooting his opponent in a duel, and on the 27th February, 1844, when Lord William Paget brought an action for "crim. con." against him in the Common Pleas. Twice when the defendant had called on Lady William Paget, the plaintiff had posted a sort of confidential valet under the sofa in the next room to watch and listen, but the evidence of this adaptable menial was so severely shaken in cross-examination that the jury found for the defendant without waiting for the summing-up. Loud cheers hailed the verdict.

28 FEBRUARY.—An extraordinary scene was witnessed at Hackney Town Hall on the 28th February, 1868, when more than six thousand poor people, newly assessed under the Reform Act, were summoned for refusing to pay rates. Long before the hearing, all the approaches were crowded to excess and many women fainted. Even the collectors testified to the poverty of many of the defendants, and the Bench, though obliged to make an order, gave time to pay.

1 MARCH.—Mr. Justice Aston, though an able judge, had an incorrigible brusqueness of manner. As Chief Justice of the Irish Common Pleas, he had made his perfectly legitimate remonstrations against the irregularities in the administration of justice in Ireland in so rude and overbearing a way that his position became intolerable. Consequently, on a vacancy occurring in the King's Bench in England, he was transferred thither in 1765. There he remained for thirteen years, still giving occasional offence by his unfortunate manner. He died on the 1st March, 1778.

2 MARCH.—The fifth Viscount Stormont, descendant of a noble but impoverished house, lived, at the beginning of the eighteenth century, in his somewhat dilapidated castle at Scone. He had married one of the Scots of Buccleugh, who "although of small fortune was of wonderful fecundity, and she brought him no fewer than fourteen children." William, the fourth son and eleventh child of this brood, was born on the 2nd March, 1705. Nothing then foreshadowed his great destiny—that he should become Earl of Mansfield and Lord Chief Justice of England.

3 March.—On the 3rd March, 1845, Lord Wynford, formerly Chief Justice of the Common Pleas, died at Leesons, his seat in Kent.

The Week's Personality.

Chance plays an extraordinary part in the launching of successful lawyers. William Draper Best, left an orphan in infancy, was early destined for the Church, but, on inheriting a considerable estate, he determined instead to seek his fortune at the Bar, and joined the Middle Temple. His opportunity to succeed in his profession came to him by accident. A brief fell into his hands owing to the absence of the counsel who was engaged in the case, and, at the hearing, Lord Chief Justice Kenyon paid many compliments to "his talents and industry." Condescension of this sort from so irascible a judge was rare in the extreme, and the notice it attracted brought solid success to young Best, though he was fluent rather than eloquent and acute rather than learned. Attaining the position of Solicitor-General to the Prince of Wales, he gained the favour of royalty and was raised to judicial honours, first as a Justice of the King's Bench, and then as Chief Justice of the Common Pleas. Habits of intemperance had earned him the affliction of gout, and gout brought about an irritability which sometimes got the better of a natural cordiality and good humour, bringing him into bad odour with the profession. After his retirement from the Bench, he was raised to the peerage as Baron Wynford.

Swift Justice.

A French journalist, writing in *Le Journal* recently, gave unstinted praise to the expeditious methods of English criminal justice. Under the heading: "Le record de l'assassin Vent qui plaidant coupable de vit condamner à la peine capitale en quatre minutes . . . Mais c'est aux assises de l'Old Bailey," he compared our procedure very favourably with the dilatory system which across the Channel can prolong a prosecution over a space of two years. But what would the writer have said to the dispatch of the old Old Bailey methods illustrated in a case which the future Hawkins, J., once timed as a young man? The prosecuting counsel examined the first witness. "I think you were walking up Ludgate Hill on Thursday, 25th, about half-past two in the afternoon and suddenly felt a tug at your pocket and missed your handkerchief which the constable now produces. Is that it?" "Yes, sir." "I suppose you have nothing to ask him?" says the judge to the prisoner. "Next witness." This is a policeman. "Were you following the prosecutor on the occasion when he was robbed on Ludgate Hill? Did you see the prisoner put his hand into the prosecutor's pocket and take this handkerchief out of it?" "Yes, sir." "Nothing to say, I suppose?" says the judge to the prisoner. Then to the jury he observes: "Gentlemen, I suppose you have no doubt? I have none." "Guilty, my Lord." Then comes sentence: "Jones, we have met before. We shall not meet again for some time. Seven years' transportation. Next case." Time—two minutes fifty-three seconds.

Truth for a Change.

At the annual dinner of the Flyfishers' Club, Lord Justice Roche, remarking on the presence of Sir Boyd Merriman, P., Hilbery, J., and Judge Lilley, observed what a change it was for them to sit in the veracious company of fishermen instead of in the "Palais de Justice" which was so rarely a "Palace of Truth." Even outside the Divorce Division, which has been called "the Supreme Court of Lies," there is too much ground to fear that the scales of justice have to weigh more questionable matter than the fisherman's scales. One of the best stories in this connection concerns the cross-examination of a certain expert witness by the future Lord Coleridge, C.J., when he was at the Bar. The witness was giving evidence in favour of a proposed harbour. "But, sir, isn't there a reef of rocks that would be a great inconvenience to you?" asked Coleridge. "Oh yes, undoubtedly there is, but we propose to get rid of it in a certain way." "Very good; but when you have got rid of it, would there not be a very awkward sand-bank to contend with?" "Certainly, but we shall provide against that." "But when you have removed both these obstacles, would you not have a great deal of trouble from the current of the river when in flood?" "Clearly, but we should be able to encounter that difficulty." "You have seen the place, have you not?" "Oh, yes." "Well, I never did. I have invented alike the reef, the sand-bank and the river."

Obituary.

Mr. K. C. BAYLEY.

Mr. Kennett Champain Bayley, solicitor, clerk to the Dean and Chapter of Durham Cathedral, died at Durham, on Saturday, 23rd February, at the age of sixty-one. Mr. Bayley, who was educated at Rugby, served his articles with the late Mr. Gleadow Marshall, of Durham, and was admitted a solicitor in 1896. He became Chapter Clerk in 1920. He was a member of the firm of Messrs. Bayley & Roberts, solicitors, of Durham.

Mr. A. T. EDWARDS.

Mr. Arthur Trevellyn Edwards, solicitor, of Cardiff, died recently at the age of forty-four. He served his articles with Messrs. Lewis Morgan and Box, and was admitted a solicitor in 1919. He became a partner in the firm of Messrs. Yorath and Jones, but the partnership was dissolved six years ago and he had since practised on his own account.

Mr. F. H. FISHER.

Mr. Frank Holcroft Fisher, solicitor, of Bristol, died recently. Admitted a solicitor in 1903, Mr. Fisher joined his uncle, the late Alderman George Pearson, and as the surviving partner had carried on the practice for many years.

Mr. E. T. NASH.

Mr. Edward Tatham Nash, solicitor, of the Strand, W.C., and Twickenham, died at Twickenham, on Thursday, 21st February, at the age of sixty-seven. Mr. Nash was admitted a solicitor in 1890.

Mr. R. A. STEVENS.

Mr. Robert Arthur Stevens, solicitor, of Victoria-street, S.W., and Highbury, N., died on Thursday, 21st February, in his seventy-ninth year. Mr. Stevens was admitted a solicitor in 1884.

Mr. J. SYKES.

Mr. John Sykes, solicitor, of Huddersfield, died on Wednesday, 20th February, at the age of seventy-five. He served his articles with the late Mr. T. H. Ramsden, of Messrs. Ramsden, Sykes & Ramsden, and was admitted a solicitor in 1884. He became a partner in the firm some years later, but the partnership was dissolved in 1902, and Mr. Sykes had since practised on his own account. He was President of the Huddersfield Incorporated Law Society in 1912.

Mr. R. E. WETHEY.

Mr. R. E. Wethey, retired solicitor, of Middlesbrough, died recently at Bournemouth. Mr. Wethey was admitted a solicitor in 1870. He moved to Bournemouth in 1918 for health reasons, but did not sever his connection with Messrs. R. E. Wethey & Co., of Middlesbrough, until 1928.

Mr. A. TURNER.

Mr. Alfred Turner, solicitor, head of the firm of Messrs. Alfred Turner & Son, of Whitechapel, died at Twickenham on Thursday, 21st February. Mr. Turner was admitted a solicitor in 1889.

Notes of Cases.

High Court—Chancery Division.

In re **Yagerphone Limited.**

Bennett, J. 25th, 28th and 29th January, 1935.

Company—Winding-up—Debenture—Fraudulent Preference—Amount Recovered—Liquidation—Claim of Creditors and Debenture-holders—Companies Act, 1929 (19 & 20 Geo. 5, c. 23), s. 265.

On the 14th January, 1933, the company issued a debenture which provided that the moneys secured should become immediately payable if an execution were levied against the company's property and not paid out within seven days. On the 17th January, it paid £240 11s. 2d. to a creditor. On the 23rd January another creditor levied execution on its goods. On the 28th January, the debenture-holders demanded payment, and on the 31st January appointed a receiver. In March the company passed a resolution for voluntary liquidation, and subsequently the liquidator took proceedings under s. 265 of the Companies Act, 1929, to recover the sum paid to the first creditor, on the ground that the payment was made with a view to preferring him over the other creditors. In December he repaid the sum claimed.

Bennett, J., in giving judgment, referred to *Ex parte Cooper*, 10 Ch. App. 510 and *Willmott* v. *London Celluloid Co.*, 34 Ch. D. 147. The question was whether the sum repaid was charged by the debenture or could be retained by the liquidator. The payment could not have been attacked had not the liquidation begun within three months. At the date when the security crystallised, the company was not in liquidation and the money was not its property. Therefore, when it was recovered, it did not become part of the general assets of the company, but was impressed in the hands of the liquidators with a trust for those creditors to whom they had to distribute the company's assets.

Counsel: *L. Cohen*, K.C., and *A. Berkeley*; *Grant*, K.C., and *C. M. White*.

Solicitors: *H. Fishman*; *Heywood & Ram*.

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Rex *v.* **Trustees of Executive Board of Midland (Amalgamated) District (Coal Mines) Scheme, 1930;** *Ex parte* **Manvers Main Collieries, Limited.**

Lord Hewart, C.J., Avory and Macnaghten, JJ.

6th February, 1935.

Coal Mines—Output Standard Tonnage—Assessment under New Scheme—Consideration of Effect of Previous Arbitration—Scheme having Statutory Force—Duty of Executive Board.

This was a rule *nisi*, obtained at the instance of Manvers Main Collieries, Ltd., calling on the trustees of the Executive Board of the Midland (Amalgamated) District (Coal Mines) Scheme, 1930, to show cause why a writ of *certiorari* should not be granted to bring up and quash a certain decision, dated the 12th December, 1934, of the Standard Tonnage Committee, appointed under the scheme with regard to the allocation of standard tonnage of each non-special coal mine in the South Yorkshire section of the Midland (Amalgamated) District. The decision of the Standard Tonnage Committee was confirmed by the Executive Board on the following day. One of the grounds on which it was alleged that the Standard Tonnage Committee had acted wrongly and outside their jurisdiction was that that Committee and the Executive Board, in determining the annual output standard tonnage of the coalmines in the South Yorkshire Section, and in particular of the coalmine owned by the Manvers Main Collieries, Ltd., had paid no regard to a special circumstance of Manvers Main Collieries, Ltd., namely, the fact that, by an award of an arbitrator under the provisions of the scheme, the annual standard tonnage of that coalmine had been fixed as from the 1st September, 1934, at 2,015,000 tons. The main question which arose was as to the effect of a very large amendment which really re-cast the principle of the scheme and which was to come into operation on the 1st January, 1935. Under that amended scheme the Executive Board and the Standard Tonnage Committee reviewed the whole of the special circumstances of every mine in the section, including the special circumstances to which attention had been drawn in the various arbitrations which had taken place, and which had resulted in awards of increases to coal owners. The Standard Tonnage Committee allocated the whole of the sectional tonnage to come into operation on the 1st January, 1935, as the new standard output tonnage. As the result of that the Manvers tonnage was reduced very considerably below the figure at which the arbitrator had decided under the old procedure that it should be put, and the Manvers Company thereupon applied for the present rule, alleging that they were entitled to maintain the arbitrator's award. The Trustees of the Executive Board of the Scheme contended that the alteration by the new scheme made it incumbent on them to review the whole of the circumstances of the section, and that they had to arrive at a fresh allocation.

Lord Hewart, C.J., said that in his opinion the award of an arbitrator in the circumstances which had arisen was not a special circumstance within the meaning of the statute or the scheme. That ground for the rule seemed to him to be misconceived. The new scheme was an enactment having the force of a statute and seemed to impose a clear statutory obligation on the Executive Board to carry out a general review notwithstanding anything which had been done before. The duty under the scheme was a general, imperative, sweeping obligation. It was clearly the duty of the Board to do what they had done. In his opinion there was no ground at all for the allegation that the applicants for the rule were aggrieved and he was satisfied that the rule ought to be discharged.

Avory and Macnaghten, J.J., concurred.

Counsel: *Sir Stafford Cripps*, K.C., *Cyril Radcliff*, and *H. S. Holdsworth*, for the Trustees of the Midland (Amalgamated) District (Coal Mines) Scheme, 1930; *Sir William Jowitt*, K.C., *N. L. Macaskie*, K.C., *J. B. Herbert*, and *T. Elder Jones*, for the Applicants, the Manvers Main Collieries, Ltd.

Solicitors: *Vincent & Vincent*, for *Owen V. Smithson*, Leeds; *Andrew, Purves, Sutton & Creery*, for *Halmshaw and Wagstaffe*, Barnsley.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Dawson *v.* **Spaul.**

du Parcq, J. 11th February, 1935.

Practice—Payment into Court—Denial of Liability—Death of Plaintiff—Executor Substituted—Claim to Payment out of Money—No Order—Law Reform (Miscellaneous Provisions) Act, 1934 (24 & 25 Geo. 5, c. 41), s. 1 (1)—Order XXII, rr. 1, 2.

Winifred Evelina Hudson, a widow, on the 12th October, 1934, issued a writ against the defendant, Percy Spaul, claiming damages for personal injuries. The defendant duly appeared to the writ, and on the 13th November the statement of claim was delivered. On the 19th November the defendant paid into court a sum of money with a denial of liability. Under the Rules of Court the plaintiff was entitled within seven days to take that sum out in satisfaction, but on the 26th November she died from a cause not due to the accident. Sydney Algernon Dawson, her executor, having been substituted as plaintiff, applied by summons for the payment out of the money. du Parcq, J., adjourned the summons into open court. By s. 1 (1) of the Law Reform (Miscellaneous Provisions) Act, 1934: "Subject

to the provisions of this section, on the death of any person after the commencement of this Act all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate."

DU PARCQ, J., said that the money was paid into court under Order XXII, rule 1, clauses (1) and (3). Reading those two clauses together, it seemed to be plain that payment in "in satisfaction" might be made with a denial of liability. By Order XXII, rule 2, Mrs. Hudson might take the money out within seven days. There the words "in satisfaction" certainly meant that if Mrs. Hudson took the money she could not go on and claim more. She had till the 26th November inclusive to take the money, but she died on the 26th November and an order was made that the proceedings in the action should be continued between Mr. Dawson and the defendant. Until recently the action would have abated, but as the result of the Act which came into force on the 25th July, 1934, the cause of action survived for the benefit of Mrs. Hudson's estate, and the present plaintiff claimed that by virtue of the cause of action vested in Mrs. Hudson at her death he was entitled to the payment out of that money. He (his lordship) thought that there was much in the view contended for by the defendant that Mrs. Hudson's death might affect the amount of damages. He thought that the defendant ought to have the opportunity of getting an adjudication on the two questions: (1) Was there liability? (2) If so, what were the damages? He would therefore make no order on the summons except that the money should remain in court.

COUNSEL: *James Amphlett* (*C. Paley Scott*, K.C., with him), for the plaintiffs; *G. Russell Vick* for the defendant.

SOLICITORS: *Amphlett & Co.*; *Wm. Easton & Sons.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Maris and Another *v.* The London Assurance.

MacKinnon, J., sitting with an Assessor.
22nd February, 1935.

INSURANCE, MARINE — SHIP — REEF STRUCK — TOTAL LOSS —FORTUITOUS CASUALTY—ONUS OF PROOF.

The plaintiffs in this case, Maris and another, claimed under a policy of marine insurance for the total loss of a steamship, the "Michael N. Maris." By the policy, dated the 20th August, 1931, the steamer was insured against, *inter alia*, total loss by perils of the seas. The total loss insured value was £12,000. On the 12th July, 1932, while the policy was still in force, the steamer, on the voyage from Dantzig to Trieste with a cargo of coal and coke, struck a reef in foggy weather off the Island of Brusnik, in the Adriatic, and sank. The plaintiffs claimed for a total loss under the policy, but the defendants refused to pay, alleging that the steamer had not been lost by any peril insured against, but had been wilfully cast away with the connivance of the plaintiffs. The two plaintiffs were the owners of the steamer and acted as captain and chief officer of her. The captain owned 80/100 and the chief officer 20/100 of the steamer.

MACKINNON, J., said that the steamer was built at Port Glasgow in 1899 and was sold to the present plaintiffs by Italians, owners in 1923. The plaintiffs raised money on her by mortgage and the mortgagees acted as her managers while the plaintiffs navigated her. She was insured for £12,000 against a total loss. The question of onus of proof had been raised. In *Pateras* v. *Royal Exchange*, 49 Ll. L., at p. 407, Roche, J., said that, although there must be a strong presumption against the commission of so criminal an act as the wilful throwing away of a ship, yet, if the matter was left uncertain as between that explanation of the loss and a fortuitous explanation of the loss, the onus of proof was on the plaintiff. He (MacKinnon, J.) accepted that view of the law, and agreed that it was the duty of the plaintiffs to prove that the loss was by a fortuitous casualty. The problem then was, had the plaintiffs established to his satisfaction that the loss was a fortuitous casualty, or was there so much probability of an intentional sinking that it could not be said that either party had clearly established its position? He had considered the case anxiously, and had come to the conclusion that the plaintiffs had sufficiently made out that the loss was a fortuitous casualty. He was satisfied that the steamer struck a rock and in consequence sank; that the striking was caused by negligent navigation; and that after the striking no sufficient efforts were made to save her. On the other hand, there was no evidence of intention; the boats were not ready for launching; the crew did not save their belongings. Judgment for the plaintiffs, with costs. He had no great sympathy with the defendants. That old vessel would only have been worth £2,000 or £3,000 on a sale for breaking up, and to insure her against total loss for £12,000 was almost to invite a casualty.

COUNSEL: *Sir Robert Aske*, K.C., and *C. T. Miller*, for the plaintiffs; *A. T. Miller*, K.C., and *K. Carpmael*, K.C., for the defendants.

SOLICITORS: *Ince, Roscoe, Wilson & Glover*; *Waltons & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

	PAGE
Arden, *In re*; Short *v.* Camm	68
Attorney-General *v.* Valle-Jones	126
Batchelor *v.* Smith	49
Bolsom Brothers (1928), *In re*	68
British Celanese Ltd. *v.* Courtaulds Ltd.	126
Browning (Inspector of Taxes) *v.* Mrs. A. F. Duckworth	49
Charrington & Co. Limited *v.* Simpson	144
Dawson *v.* Hill (No. 2)	86
Elderton *v.* United Kingdom Totalisator Co. Limited	126
Elliot *v.* Joicey	144
Gerber *v.* Pines	13
Forster and Another *v.* Williams Deacon's Bank Limited	145
Harman *v.* Layton-Bennett	108
Howard *v.* Pickfords Ltd.	69
Kneen (Inspector of Taxes) *v.* Martin	31
Lancashire County Council *v.* Southport Corporation	11
Lane *v.* John Mowlem & Co. Ltd.	31
Leng *v.* Dodgshon	127
"London Corporation," The	86
Lovegrove, *In re*; *Ex parte* Applestone and Another *v.* The Trustees	145
Nicholson *v.* Southern Railway Co. and Another	87
R. & W. Paul Ltd. *v.* Wheat Commission	86
Railways (Valuation for Rating) Act, 1930, *In re*. *In re* Appeals by the Southern Railway Company and Others from a Decision of the Railway Assessment Authority	127
Rex *v.* Licensing Authority for West Midland Traffic Area: *Ex parte* Great Western Railway Co.	109
Rex *v.* Sir R. F. Graham-Campbell; *ex parte* Herbert	12
Simeon *v.* Minister of Health	109
Solicitors, *In re*; *In re* Taxation of Costs	49
Southern Railway Company *v* Boots Pure Drug Company Limited	109
Stewart (Inspector of Taxes) *v.* Lyons	31
Tarry *v.* Chandler	11
Williams-Ellis *v.* Cobb	11
Wright *v.* The Embassy Hotel	12

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Searches.

Sir,—Is not your correspondent "Subscriber" making the proverbial mountain out of a molehill? A purchaser from personal representatives is surely protected by s. 27 (1) of the Administration of Estates Act, 1925: "Every person making or permitting to be made any payment or disposition in good faith under a representation shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the representation."

So long, then, as the purchaser insists on examining the grant of representation, and takes his conveyance from the representatives therein named, he appears to be safe.

In any case, either the representatives have the grant in their possession or they have not. If they have, then on the appointment of a judicial trustee the grant is carried into the registry and revoked. If they have not, then no purchaser would accept the title of the representatives without elaborate enquiries being made at Somerset House, when any endorsements on the Probate Act or the Administration Act would be brought to light.

25th February. E. M. D.

Parliamentary News.

Progress of Bills.

House of Lords.

Bristol Tramways Bill.
Read Second Time. [21st February.
British Shipping (Assistance) Bill.
Royal Assent. [26th February.
Herring Industry Bill.
Read First Time. [26th February.
Intoxicating Liquor (Advertisement Regulation) Bill.
Read First Time. [21st February.
Marlow Water Bill.
Read Second Time. [27th February.
Ministry of Health Provisional Orders (County of Holland Joint Hospital District) Bill.
Read First Time. [26th February.
Ministry of Health Provisional Orders (Guisborough Joint Small-pox Hospital District) Bill.
Read First Time. [26th February.
Ministry of Health Provisional Orders (Huntingdonshire Joint Hospital District) Bill.
Read First Time. [26th February.
Ministry of Health Provisional Orders (South Chilterns Joint Small-pox Hospital District) Bill.
Read First Time. [26th February.
Poole Road Transport Bill.
Read Second Time. [26th February.
Regimental Charitable Funds Bill.
Amendment reported. [26th February.
Sea Fisheries Provisional Order Bill.
Read First Time. [26th February.
South Metropolitan Gas Bill.
Read Second Time. [21st February.
South Suburban Gas Bill.
Read Second Time. [27th February.
Unemployment Insurance Bill.
Royal Assent. [26th February.

House of Commons.

Clacton-on-Sea Pier Bill.
Reported, with Amendments. [21st February.
Coventry Canal Navigation Bill.
Reported, with Amendments. [21st February.
Government of India Bill.
In Committee. [27th February.
Herring Industry Bill.
Read Third Time. [22nd February.
Housing (Scotland) Bill.
Read Second Time. [21st February.
Industrial Councils Bill.
Read First Time. [26th February.
Medway Lower Navigation Bill.
Reported, with Amendments. [21st February.
Metropolitan Police (Borrowing Powers) Bill.
Reported, without Amendment. [26th February.
Ministry of Health Provisional Order (County of Holland Joint Hospital District) Bill.
Read Third Time. [22nd February.
Ministry of Health Provisional Order (Guisborough Joint Small-pox Hospital District) Bill.
Read Third Time. [25th February.
Ministry of Health Provisional Order (Huntingdonshire Joint Hospital District) Bill.
Read Third Time. [22nd February.
Ministry of Health Provisional Order (South Chiltern Joint Small-pox Hospital District) Bill.
Read Third Time. [22nd February.
National Industrial Council Bill.
Read First Time. [26th February.
Oxford Canal Bill.
Reported, with Amendments. [21st February.
Post Office and Telegraph (Money) Bill.
Read Second Time. [22nd February.
Reading Corporation Bill.
Read Second Time. [25th February.
Rochdale Canal Bill.
Reported, with Amendments. [21st February.
Salmon and Freshwater Fisheries Bill.
Read First Time. [26th February.
Sea Fisheries Provisional Order Bill.
Read Third Time. [25th February.
Southern Railway Bill.
Read Second Time. [27th February.
Weaver Navigation Bill.
Reported, with Amendments. [21st February.
Works Councils Bill.
Read First Time. [26th February.

Questions to Ministers.

PRIVATE DETECTIVE AGENCIES.

Dr. O'DONOVAN asked the Home Secretary whether he will make a statement with regard to the representations made within the past 12 months to his Department from His Majesty's judges or from other sources commenting adversely upon the working of private detective agencies.

Sir J. GILMOUR: I cannot find that any representations on this subject have at any time been made to the Home Office by His Majesty's judges. The only representations of this kind which I have received during the last 12 months have been made by the British Detectives Association. [22nd February.

Societies.

City of London Solicitors' Company.

ANNUAL DINNER.

The City of London Solicitors' Company held its annual dinner at the Mansion House on Thursday, the 21st February. The Hon. E. G. ELIOT, the Master, occupied the chair.

Among those present were: The Rt. Hon. The Lord Mayor, The Rt. Hon. Lord Blanesburgh, The Rt. Hon. Lord Macmillan, The Rt. Hon. Lord Tomlin, The Rt. Hon. Lord Wright, The Master of the Rolls, Mr. Justice Bucknill, Sir W. Ronald Allen, Sir Robert Aske, Bart., K.C., M.P., Sir William Barber, Sir John Field Beale, Sir George Bonner, Sir Percival Clarke, K.C., Sir E. R. Cook, Sir Herbert Cunliffe, K.C., Sir Stephen Demetriadi, Sir Thomas Inskip, K.C., M.P., Sir A. W. Lawrence, Bart., Sir Herbert Lush-Wilson, Sir James Martin, Lt.-Col. Sir John Murray, K.C.V.O., D.S.O., Sir J. B. Pakeman, Sir Herbert T. Robson, Sir Edwin Savill, Sir John Stavridi, Sir Donald V. Somervell, K.C., M.P., His Honour Judge Shewell Cooper, Mr. Cecil Whiteley, K.C., Mr. Alderman and Sheriff Pearse, Mr. Alderman and Sheriff Twyford, Com. W. St. G. Abbot, R.N., Mr. Gordon Alchin, Mr. J. H. N. Armstrong, O.B.E., The Hon. Ray Atherton (Chargé d'affaires, American Embassy), Mr. E. Burrell Baggalay (Past Master), Mr. H. Roper Barrett, Mr. Ernest Bates (Master of the Card Makers' Company), Mr. Arthur F. Bell (Clerk), Mr. H. Rowsell Blaker (President of The Law Society), Capt. Henry T. A. Bosanquet, C.V.O., R.N. (Secretary of King George's Fund for Sailors), Mr. P. D. P. Botterell (Past Master), Mr. Leslie C. Bowker (City Remembrancer), Mr. E. G. C. Browne, Col. John Buchan, M.P., Mr. L. C. Bullock (Member of Court), Lt.-Col. R. D. Buxton, D.S.O., Major James W. Sabben Clare, C.D.S.O., Mr. Arthur C. Cummings (Member of Court), Major Gen. Guy P. Dawnay, D.S.O., Major R. J. Dunlop, V.D., D.L. (President of the Chamber of Shipping), Mr. W. N. Earle (Secondary of London), Mr. E. Cassleton Eliot (President of Incorporated Accountants' and Auditors' Society), Lt.-Col. W. F. O. Vaviel, D.S.O., Mr. P. C. Fawcett (Member of Court), Mr. N. R. Fox-Andrews, Mr. Hugh D. P. Francis (Past Master), Mr. P. C. C. Francis, Mr. R. S. Fraser, Mr. Cyril Gammon (Private Secretary to the Lord Mayor), Dr. Jan Gerke (Secretary to the Czechoslovak Legation), Mr. C. S. Golding (Member of Court), Mr. Stanley Greenland, Mr. G. R. Gregory, Mr. F. M. Guedalla (Past Master), Mr. A. Hair (Member of Court), Mr. J. Montague Haslip (Past Master), Mr. A. S. Hicks (Hon. Auditor), Mr. Barnett Hollander (New York Bar), Mr. Deputy C. D. King, Mr. H. Knox (Past Master), Mr. William Latey, Brig.-Gen. R. T. H. Law, Mr. Arthur de Freyne Macmin, Rev. F. G. Masters (Chaplain, Rector of St. Mary's, Abchurch), Mr. M. C. Matthews, Mr. G. L. F. McNair (Past Master and Hon. Treasurer), Mr. G. D. Mills (Assistant Master in Lunacy), Mr. R. H. Monier-Williams, Mr. Anthony Pickford (Junior Warden, and City Solicitor), Mr. E. A. Rehder (Member of Court, Steward), Mr. E. G. Roscoe, Mr. Sydney C. Scott (Past Master), Mr. E. G. Stannard (Past Master), Mr. H. S. Syrett (Member of Court), Mr. T. H. Wrensted (Past Master).

After the members and guests had drunk the health of Their Majesties and the Royal Family, the Master proposed the toast of The Lord Mayor, Sheriffs and Corporation. He had always been told, he said, that a man ought to be master in his own house, but he had learnt that it was much pleasanter to be Master in someone else's, especially when the other house was the Mansion House. The Lord Mayor had told him that, on an average, his health was drunk six times a week. He would hesitate to add to the total by even one, were it not that the Company had a special qualification; all its work lay within the boundaries of the City. Its members, therefore, honoured the toast not as strangers, but as friends. Whatever the changes and vicissitudes of City life, the Corporation stood like a rock against which the waves of the "sensations," so dear to the penny Press, beat in vain. Whatever anxiety

shook the world of finance, above the Mansion House still floated serenely the City flag, with its red cross and its red sword, emblem of honest dealing, justice, and care for the welfare of others. Long might the time be before that flag was hauled down!

The LORD MAYOR, in reply, remarked that the Company, although it could not compete with the livery companies in age or tradition, presented the energy, forcefulness and confidence of youth, qualifications which had been held to counter-balance the disadvantages of inexperience. The Company was of particular interest to members of the Corporation, because one of its founders had been Sir Homewood Crawford, for many years City Solicitor; his brother-in-law, Sir George Truscott, who had been Lord Mayor at the time, had presided over the first dinner at the Mansion House. The Lord Mayor regretted that Sir George was prevented by indisposition from being present, and expressed the wish of all that he might speedily recover and return to the City which he had loved and served so well.

He supposed that no one who had ever done anything had not at some time or other had to employ a solicitor. He could not understand why people said they did not like solicitors, who seemed a very inoffensive race of beings, always ready to give advice provided they were paid for it. However much Englishmen might criticise the law courts and lawyers, the fact remained that the administration of justice in this country stood out pre-eminent and was respected and admired in every quarter of the world. The Lord Mayor and Aldermen had a great deal to do with the law and those who administered it, for they sat as magistrates at the Mansion House and Guildhall, and were also commissioners of the Central Criminal Court and attended daily in that capacity. Mr. Anthony Pickford, one of the law officers to the Corporation, was the Company's junior warden and would presumably, in due course, fill the office of Master.

Mr. E. G. ROSCOE, proposing the health "Bench and Bar," said that in the Bench, and in the Bar from which the Bench was recruited, the country had a typical British institution which would endure the test of time. The Company was honoured by the presence of no less than four Lords of Appeal, who were in a particularly favourable position because, like the Pope, they were infallible. The Master of the Rolls was present, the titular controller and head of the solicitors' profession. They congratulated Mr. Justice Bucknill on his elevation to the Bench as a judge of that strangely-assorted trio, the Probate, Divorce and Admiralty Division. His appointment was of particular interest to those who worked in the City and whose business was in the Admiralty Court, whether as lawyers, as underwriters or shipowners. They also welcomed the Attorney-General, the titular head of the Bar; Judge Whiteley, the Common Sergeant; and Judge Shewell Cooper, who presided over the Mayor's and City of London Court. Among the eminent members of the Bar present were Sir Herbert Cunliffe, President of the Bar Council; Sir Robert Aske, Sir Percival Clarke, Sir George Bonner—the King's Remembrancer—and Mr. L. C. Bowker, the City Remembrancer. When solicitors appeared in court to instruct counsel they were invisible and inaudible; to-night, however, they hoped that their guests could both see and hear them.

CHANGES ON THE BENCH.

THE MASTER OF THE ROLLS, in reply, declared that what "Bradshaw" was to the railway traveller, Roscoe was to the lawyer, a *vade mecum* without which no one would venture into a court, civil or criminal. Lord Hanworth claimed to be a great deal more than titular head of the solicitors' profession. He had read in the second book of Kings that Ahab had 70 sons in Samaria. He had a great many more sons than that, for he made them at the rate of 600 a year. One of the Master's predecessors had not unfairly referred to him as the father-in-law of all the solicitors. During the past year the Bench had seen many changes; in the last twelve months it had lost from its honourable roll three great names: Lord Sumner, Lord Justice Scrutton, and Lord Buckmaster. Lord Sumner, who had died at the end of May, and Lord Justice Scrutton, who had died late in August, had been protagonists in the early days of the Commercial Court: both of them had added to the store of learning which was recorded in the *Law Reports*, and their judgments made plain passages that had been obscured. Both had left behind them many affectionate friends. Lord Justice Scrutton's name would long be remembered in Leadenhall Street and Fenchurch Street for the work he had done in matters of shipping and commerce. There had never been a more loyal colleague; the affection that had sprung up between Lord Justice Scrutton and himself at Cambridge had never been disturbed, and his loss was by no means easy to repair. On the other hand, the strength of the Bench had been reinforced by a number of good men and true; Mr. Justice Singleton, Mr. Justice Porter, Mr. Justice Greaves-Lord, Mr. Justice Hilbery and Mr. Justice Bucknill. None of these men had the reason for going on the Bench that was put forward by Lord Bowen's clerk: "Our eyes are weak and the sooner we get upon the Bench the better!"

The Royal Commission on the delays in the King's Bench Division was working very hard; it had received some important evidence and contained a number of Commissioners well qualified to offer advice. The Business of Courts Committee was attempting to revise and simplify the procedure in patent cases, and some of its members were tackling the Crown Office Rules, which embodied a great number of various matters, including outlawry. Although his recollection went back a long time, Lord Hanworth had never heard of proceedings in the courts concerning outlawry, though Col. John Buchan would confirm the way in which the House of Commons asserted its right to deal with its own business before it yielded to the claims of the Crown. When it returned to its own chamber after hearing the King's speech, the first thing that happened was that the Clerk at the Table, with a piece of paper in his hand, announced "a Bill to reform Proceedings in Outlawry," and with acclamation that Bill was read the first time. As a member of the House of Commons, Lord Hanworth had once approached the Clerk and asked to be shown the Bill; the Clerk had merely looked at him, in what was called in Lincolnshire an "old-fashioned" manner, and had said nothing.

The Lord Chancellor in 1934 had proposed to the Revision of Law Committee four difficult questions, to which the Committee had returned four answers in four reports. After they had passed this examination he had proposed some rather more difficult questions during the present year: he had propounded to them what had to be done with the Statute of Frauds, that old man of the sea, which came up from time to time and which had caused Lord Mansfield to blaspheme, and Lord Kenyon to rise in pæans of praise. The Bench therefore, was not only occupied in administering justice from half-past ten to four, but was concerned after that time to see what it could do for future as well as present generations.

Sir THOMAS INSKIP, the Attorney-General, also in reply, said that although Lord Hanworth had replied for the Bench, no one had more of the spirit of the Bar than he had, and no one was more in touch with its feeling and traditions. One of the happiest features of the English legal system was the confederacy or brotherhood between members of the Bench and of the Bar. To-night the Bench, Bar and solicitors' profession entered into a tripartite agreement. It was a popular belief that the Lord Chancellor appointed the judges, but in truth this public duty was discharged by members of the Company's profession. Following Lord Hanworth's example, the Attorney-General claimed to be much more than the titular head of the Bar. He recalled an occasion on which the Prime Minister, when engaged in revising a draft of the King's speech, had found a pencil note at the bottom, "Refer A.G." Thereupon he had remarked that the Attorney-General had nothing on earth to do with the King's speech and had struck out the note. The secretary to the Cabinet had, however, intervened with the explanation that the note was intended as a reminder to pray for the customary blessing of Almighty God. He praised the members of the Bar and the solicitors' profession who, for no reward, undertook the conduct of poor persons' cases.

Mr. ANTHONY PICKFORD, the Junior Warden, proposed "The Guests." He welcomed the four Law Lords, and pointed out that in deference to a view which had been recently expressed in their august tribunal, the Company had taken great care to segregate all the expert witnesses and to place them where they could be asked no questions by counsel and where any comments they expressed could only be heard amongst themselves. The Master of the Rolls was an old and trusted friend of the solicitors' profession, and the Company hoped that he would honour them on many similar occasions in future. Mr. Pickford greeted by name the other members of the Bench and several members of the Bar, and welcomed the President of The Law Society and its indefatigable secretary, Sir Edmund Cook, who did all the work while the credit was taken by the Council and the President. Among the guests, he pointed out, were also the presidents of many associations, commercial and professional—the Chairmen of The Baltic and the London Chamber of Shipping, the President of the London Chamber of Commerce and of the Incorporated Accountants' and Auditors' Society. He coupled with the toast the name of Colonel John Buchan; every member of the gathering had, he said, spent many delightful hours in listening to Colonel Buchan through the pages of his charming and instructing books, where they could in imagination travel the mountains and moors of Scotland and let the air blow away the dust and cobwebs which inevitably settled upon lawyers in the pursuit of their avocation.

Colonel JOHN BUCHAN, in reply, observed that the City of London Solicitors' Company was unique among city companies in one respect. Usually the name of a company was no index to the character of the members. He had dined with the Haberdashers and the Drapers, but had never found any flavour of "gents' summer suitings." When he had dined with the Vintners he had not found himself in the company of gentlemen who had the agreeable job of selling good wine. When he had dined with the Fishmongers, he had found himself among many fellow fishermen who were very ready to retail stories about their skill, but who did not retail their products. The Solicitors' Company, however, lived up to its name, and its members actually belonged to the great fraternity of the law. He had himself once been a member of that fraternity; he had spent a year in a solicitor's office which he had enormously enjoyed, and he had practised for a few years at the Bar. Like many others he had drifted into business, not quite understanding why, but had never lost his respect for a great profession. Once a lawyer always a lawyer, and when he opened his morning newspaper he always read the law reports first. The profession was attended in the popular mind with a certain amount of ribaldry. It was said: "*Nemo repente turpissimus fit*," a saying which had been translated, "It takes five years to make a solicitor." There was a saying current in Scotland: "'Home's aye home, be it never so humble'—as the devil said when he found himself in the Court of Session." If, however, hypocrisy was the tribute that vice paid to virtue, ribaldry was the tribute that folly paid to wisdom. The solicitor had an austere conscience and was sometimes compelled to a harshness and candour in the interests of truth from which he would prefer to refrain as a private citizen. Like the Almighty in the saying of the old parson, he was compelled to do things in his official capacity which he would scorn to do as a private individual. Colonel Buchan ended on a tribute to the common law as the most enduring of all the links between the English-speaking races.

PROMOTION OF LEGAL SCHOLARSHIP.

Lord MACMILLAN, proposing the health of the City of London Solicitors' Company, said that he had never seen so many genial solicitors in his life. Although the company was not yet venerable, it had already established itself among the City companies as one with an admirable reputation for good work and good fellowship. In no profession was there so much good fellowship as in the law. Lawyers strove mightily as adversaries but drank together as friends, and left the court arm in arm after disputes which would keep ordinary citizens from speaking to one another for a long time. Even when he and his brothers dissented from each other in the House of Lords there was no asperity at the luncheon table. Solicitors did a great deal more to appease controversy than the public imagined. Among its many activities the company did not neglect the cause of scholarship. Last year it had given a couple of prizes to The Law Society to award to deserving students. He asked it to develop this side of its activities. The report of The Law Society on legal education had recommended that an Institute of Legal Research should be established in London. Few people realised the amount of legal treasure that was hoarded in London in the magnificent Record Office and elsewhere. There was a great opportunity for members of the legal profession to promote legal scholarship. Lawyers should remember that their reputation depended upon their being learned as well as efficient. No one who had ever devoted himself to the study of legal science and legal history had ever regretted it, for, apart from its intrinsic interest, it gave him real assistance in the daily conduct of his business. Solicitors had been called the barriers which man had erected at trifling cost between civilisation and the jungle. He commended that solemn and impressive thought to the gathering for its reflection.

The MASTER, in reply, observed that the company, being a corporation and therefore having neither a body to be kicked nor a soul to be saved, yet had a health to be drunk. He pointed out that the company did not sleep soundly for a year, wake up and have a good dinner and then go to sleep again for another year. It attended to many other matters. He regretted the loss through resignation from business in the City of its capable and energetic clerk, Captain Matthews, and welcomed Mr. A. F. Bell as a worthy successor, pointing to the dinner as a proof of his organising ability. Past-Master Francis and Mr. Cummings, who were both present, had served the company well as clerks in the past.

The Hardwicke Society.

The Annual Ladies' Night Debate was held in the Middle Temple Hall on Tuesday, 12th February, by courtesy of the Treasurer and Masters of the Bench. Amongst some 260 members and visitors present were Sir Lynden Macassey, the Treasurer, and Judge Sir Alfred Tobin and Sir Thomas Molloney, Masters of the Bench of the Middle Temple, General Sir John Shea and General Walsh. The proceedings were commenced by The Hon. F. P. Howard (the Hon. Secretary of the Society) reading the minutes of the last meeting, which were signed as a correct record. After Mr. H. P. Sweeney had enquired why the debate is called the "Ladies" Night Debate, and been ruled out of order, the President (Mr. A. Newman Hall) apologised to the House for the sudden and unexpected absence of Mr. George Lansbury, who had been detained in the House of Commons, and explained that The Right Hon. A. V. Alexander had very kindly consented at a moment's notice to speak in the place of Mr. Lansbury.

The President then called on Mr. A. A. Baden Fuller, of the Hardwicke Society, who moved that "Production for private profit should be replaced by Co-operative Production." Mr. James A. Petrie, of the Hardwicke Society, opposed.

Mr. Alexander spoke third, dealing in detail with the past achievements of the co-operative movement, and expressing confidence in its ability to replace the capitalist system. As a leader of the co-operative movement he criticised the capitalist system on the ground that it failed to promote the happiness or prosperity of the workers and had during the Great War shown itself so incompetent as to require rigorous control.

Mr. Craven-Ellis, M.P., spoke fourth, and while admitting the necessity of remedying many of the defects in the capitalist system by state intervention, defended its general economic efficiency and found its justification in the steady and increasing amelioration in the conditions of the workers.

Mr. Michael Stewart then wound up the debate by replying to Mr. Craven-Ellis.

On a division, there voted for the motion sixty-eight, and against the motion 170, and the motion was therefore negatived by 102 votes. At the conclusion of the formal proceedings the Hon. Treasurer (Mr. T. H. Mayers) moved a vote of thanks to the Treasurer and Masters of the Bench of the Middle Temple, owing to whose generosity and hospitality it was rendered possible to hold the debate. This vote of thanks was seconded by the Hon. Secretary and carried with acclamation. At 10.30 the House adjourned and members and visitors proceeded to the Parliament Chamber, where refreshments were provided.

A meeting of the Society was held on Friday, 22nd February, at 8.15 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. J. Yahuda moved "That the National Government has shown itself both reactionary and incompetent in its treatment of the unemployed." Mr. J. Boyd-Carpenter opposed. There also spoke Mr. McKinnon, Mr. King, Mr. Sweeney, Mr. T. H. Mayers (Hon Treasurer), Mr. J. A. Petrie, Mr. S. Varge, the Hon. F. P. Howard (Hon. Secretary), Mr. Llewellyn Thomas, and Mr. Krusin. The hon. mover having replied, the House divided, and the motion was lost by one vote.

The Union Society of London.

(CENTENARY YEAR.)

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 20th February, at 8.15 p.m., Mr. J. F. Mountain (Acting Vice-President) being in the chair. Mr. D. F. Brundrit proposed the motion "That capitalism has proved itself to be unable to meet the present economic difficulties." Mr. A. D. Russell-Clarke opposed, and Messrs. Ingram, Hurle Hobbs, Moses, Sandilands, Coram and Marvin also spoke. Mr. Brundrit having replied, upon division, the motion was carried by three votes.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 27th February, at 8.15 p.m., the President (Mr. Alun Llewellyn) being in the Chair. Mr. J. F. Mountain proposed the motion: "That this House approves of the Government's Housing Policy." Mr. J. D. Mervin opposed, and Mr. Peter Winckworth (Hon. Treasurer), Sir James Henry, Mr. Hurle Hobbs, Mr. D. W. Dobson and Mr. Fraser also spoke. Mr. Mountain replied. Upon division the motion was lost by one vote.

Gray's Inn Debating Society.

The third meeting of the year was held in the London School of Economics at 8 p.m. on Tuesday, 19th February, when the annual joint debate with the University of London Law Society took place, the President of the latter Society (Mr. M. O'C. Stranders) being in the chair. The motion for debate was "That in a well-organised community the lawyer

would be superfluous." The chairman having welcomed the members of the visiting Society, the motion was proposed by Mr. F. A. Vallat and opposed by Mr. F. E. C. Wood (U. of L.L.S.); Mr. A. Goodman (ex-President, U. of L.L.S.) spoke third, and Mr. Eric Walker spoke fourth. On the motion being thrown open to the house, Capt. F. J. Parker (President) and Mr. Rogers (U. of L.L.S.) spoke in favour of the motion, and Mr. Kelly (U. of L.L.S.), Mr. Garner (U. of L.L.S.), Mr. G. K. McCulloch (U. of L.L.S. and G.I.D.S.), Mr. James C. Hales (ex-President, U. of L.L.S., and G.I.D.S.), Mr. R. A. Furtado (U. of L.L.S. and G.I.D.S.), Miss J. M. Bernal Greenwood, M.B.E., and Mr. Knowles (U. of L.L.S.) against it. The motion was rejected by thirty votes to eleven, the number of members of the two Societies and guests present being fifty-five. A vote of thanks to the members of the visiting Society was proposed by the chairman and carried by acclamation, to which the President of the visiting Society replied, thanking the University of London Law Society for its hospitality.

Bar Council.

APPOINTMENT OF OFFICERS.

The Council has appointed the following Officers for the ensuing year: Chairman, Sir Herbert Cunliffe, K.C.; Vice-Chairman, Mr. R. E. L. Vaughan Williams, K.C.; Treasurer, Mr. J. F. W. Galbraith, K.C., M.P.

The following gentlemen have been appointed Additional Members of the Council: Sir Lynden Macassey, K.B.E., K.C., Mr. A. M. Dunne, K.C., Mr. Stuart Bevan, K.C., M.P., Mr. R. F. Bayford, O.B.E., K.C., Mr. James Whitehead, K.C., and Mr. St. John G. Micklethwait, K.C.

United Law Society.

A meeting of the United Law Society was held on the 25th February, in Middle Temple Common Room. Mr. F. R. McQuown proposed: "That an Act should be passed excluding from membership of the House of Commons all except (*a*) university graduates, (*b*) duly qualified members of recognised professions, and (*c*) persons to whom some non-political committee, to be specially appointed, shall have granted certificates that by reason of (1) exceptional abilities, or (2) great vocational experience, they are in a position to give valuable advice on matters of national or international importance." Mr. J. H. Menzies opposed. Messrs. T. Jameson, H. S. Wood Smith, T. R. Owen, R. E. Ball and S. A. Gibbons spoke, and Mr. McQuown replied. The motion was lost by one vote.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 19th February (Chairman, Miss U. A. Hastie), the subject for debate was: "That morality has its foundation in expediency." Mr. I. L. Lewis opened in the affirmative; Mr. E. V. E. White opened in the negative. The following members also spoke: Messrs. R. J. A. Temple, R. Stock, H. Peck, L. J. Frost, L. F. Sturge, S. Campbell, N. Branch. The opener did not reply. The motion was lost by eight votes. There were eighteen members and one visitor present.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 26th February (Chairman, Mr. P. W. Iliff), the subject for debate was: "That the case of *Flint* v. *Lovell*, 51 T.L.R. 127, was wrongly decided." Mr. G. A. Russo opened in the affirmative; Mr. J. Roberts opened in the negative; Mr. E. Garber seconded in the affirmative; and Mr. T. R. E. Ennion seconded in the negative. The following members also spoke; Messrs. P. Dean, A. L. Ungoed-Thomas, R. Stock, G. M. Parbury, B. MacKenna, A. N. Buckmaster, and W. M. Pleadwell. The opener having replied, and the Chairman having summed up, the motion was lost by one vote. There were sixteen members and one visitor present.

MARRIED WOMEN AND THE LAW.

On Monday last the Lord Chancellor received a deputation organised by the National Union of Women Teachers, the Open Door Council, St. Joan's Social and Political Alliance, the Six Point Group, and the Women's Freedom League on the subject of the report of the Law Revision Committee on the liability of a husband for the torts of his wife and the liability of married women in tort and contract.

Rules and Orders.

THE SUPREME COURT FUNDS (NO. 1) RULES, 1935.
DATED FEBRUARY 20, 1935.

I, the Right Honourable John Viscount Sankey, Lord High Chancellor of Great Britain, with the concurrence of the Lords Commissioners of His Majesty's Treasury, and in pursuance of the powers contained in section 146 of the Supreme Court of Judicature (Consolidation) Act, 1925,* and every other power enabling me in this behalf, hereby make the following Rules:—

1. In these Rules:—

A Rule referred to by number means the Rule so numbered in the Supreme Court Funds Rules, 1927,† as amended.‡

A Form referred to by number means the Form so numbered in the Appendix to the Supreme Court Funds Rules, 1927, as amended.

2. In paragraph (3) of Rule 44—

(*a*) the following words shall be inserted after "Road Traffic Act, 1930,"§:—

"or under the authority of a Certificate of the Board of Trade in pursuance of the Workmen's Compensation (Coal Mines) Act, 1934,‖ and Rules made thereunder,"; and

(*b*) the word "Association", shall be inserted after the word "Society,".

3. In paragraph (c) of Rule 74 the words "or Certificate" shall be inserted after the word "Warrant."

4. In Form No. 37A, in the heading to A and in the heading to B, the words "and a warrant of the Board of Trade or of the Industrial Assurance Commissioner" shall be deleted and the following words shall be substituted therefor:—

"or the Workmen's Compensation (Coal Mines) Act, 1934, and a warrant or certificate of the Board of Trade or a warrant of the Industrial Assurance Commissioner".

5. These Rules may be cited as the Supreme Court Funds (No. 1) Rules, 1935, and shall come into operation on the 4th day of March, 1935, and the Supreme Court Funds Rules, 1927, as amended, shall have effect as further amended by these Rules.

6. The Supreme Court Funds (No. 2) Rules, 1934, dated the 27th day of December, 1934, and now in force, shall continue in force till the 4th day of March, 1935, on which day they shall be superseded and replaced by these Rules.

Dated the 20th day of February, 1935.

Sankey, C.

A. Lambert Ward,
Walter J. Womersley, } Lords Commissioners of His Majesty's Treasury.

* 15 & 16 Geo. 5, c. 49.
† S.R. & O. 1927 (No. 1184), p. 1638.
‡ See S.R. & O. 1931 (No. 459), p. 1239, 1933 (No. 61), p. 1826, and 1934, No. 1069.
§ 20 & 21 Geo. 5, c. 43.
‖ 24 & 25 Geo. 5, c. 23.

Legal Notes and News.

Honours and Appointments.

The King has approved that Sir GEORGE CLAUS RANKIN be sworn of His Majesty's Most Honourable Privy Council. Sir George Rankin, who was called to the Bar by Lincoln's Inn in 1904, became Chief Justice of the Calcutta High Court in 1926, and resigned last year owing to ill-health.

The King has been pleased to approve the appointment of Mr. SIDNEY WADSWORTH, I.C.S., as a puisne Judge of the High Court of Judicature at Madras on the retirement, on 19th June, of Mr. Justice E. Pakenham Walsh, I.C.S.

The Lord Chief Justice has appointed Mr. ARTHUR JAMES IRVINE, barrister-at-law, of the Middle Temple, and of Oriel College, Oxford, to be his secretary in succession to the late Mr. William Bowstead.

The President of the Probate, Divorce and Admiralty Division has appointed Mr. HENRY FREDERICK OSWALD NORBURY, barrister-at-law, one of the Registrars of the Principal Probate Registry, to be Senior Registrar of the Principal Probate Registry, in place of the late Mr. Walter Andrew Inderwick. Mr. Norbury was called to the Bar by the Inner Temple in 1907.

The Board of Inland Revenue have appointed Mr. A. ROBINSON to be Controller of Death Duties and Mr. R. DYMOND to be Deputy Controller of Death Duties.

Mr. DIGBY H. EXTON, of Maesteg, has been appointed Clerk and Solicitor of Ogmore and Garw Urban District Council. Mr. Exton was admitted a solicitor in 1919.

Mr. Gerald H. R. Wilson, solicitor, Acting Town Clerk of Guildford, has been appointed Town Clerk and Clerk of the Peace of the Borough of Guildford, in succession to Mr. C. H. Wood, who has resigned owing to ill-health. Mr. Wilson was admitted a solicitor in 1931.

Mr. Lewis G. Vinall, solicitor, a member of the firm of Messrs. Isaac Vinall & Sons, of Lewes, has been appointed Clerk to the Lewes Magistrates in succession to the late Mr. E. J. Bairstow. Mr. Vinall was admitted a solicitor in 1901.

Wills and Bequests.

Mr. Harry Bevan Wedgewood Foulger, retired solicitor, of Chipstead, late of Inner Temple, E.C., left £16,846, with net personalty £2,321.

Mr. Alfred Ernest William Chamberlin, solicitor, of Leicester, left £16,511, with net personalty £15,621.

Mr. George Berwick Cope, of Albrighton, Salop, for twenty-five years registrar of the Wolverhampton County Court, left £51,095, with net personalty £48,384.

Mr. John Rawlinson Ford, solicitor, of Yealand Conyers, near Carnforth, Lancs, left £19,838, with net personalty £7,333.

Mr. Arnold Stuart Massey, solicitor, of Kensington, left £12,592, with net personalty £11,562.

Mr. James Amphlett, solicitor, of Colwyn Bay, left £25,885, with net personalty £10,414.

Mr. Arthur James Isard, J.P., solicitor, of Tonbridge, left £10,710, with net personalty £7,949.

Mr. Hugh Meyric Hughes, solicitor, of Shrewsbury, left £10,430, with net personalty £4,987.

BOROUGH OF WALSALL.

The next general quarter sessions of the peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 14th day of March, 1935, at 10 o'clock in the forenoon.

A WARNING.

Warning is given to readers of this Journal of a woman who calls on solicitors stating she is the daughter of a well-known solicitor in Canada, giving his name and address, and that she was married over there and came to England to spend her honeymoon; that after three weeks she ascertained that her husband was already married and had a wife and three children living. Her tale is false, and her arrest is sought by the Police (Vine-street). Her description is—Age 32, height 5 feet 2½ inches, complexion pale, hair brown, eyes blue, sometimes wears glasses, well spoken and well dressed.

Court Papers.

Supreme Court of Judicature.

Rota of Registrars in Attendance on

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve. Non-Witness.	Mr. Justice Bennett. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Mar. 4	Ritchie	Hicks Beach	More	*Andrews
,, 5	Blaker	Andrews	Ritchie	*More
,, 6	More	Jones	Andrews	*Ritchie
,, 7	Hicks Beach	Ritchie	More	Andrews
,, 8	Andrews	Blaker	Ritchie	*More
,, 9	Jones	More	Andrews	Ritchie

Date.	Group I. Mr. Justice Crossman. Witness. Part. II.	Group II. Mr. Justice Clauson. Witness. Part. II.	Mr. Justice Luxmoore. Witness. Part I.	Mr. Justice Farwell. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
Mar. 4	*Ritchie	Hicks Beach	*Blaker	Jones
,, 5	Andrews	*Blaker	*Jones	Hicks Beach
,, 6	*More	Jones	*Hicks Beach	Blaker
,, 7	Ritchie	*Hicks Beach	*Blaker	Jones
,, 8	*Andrews	Blaker	Jones	Hicks Beach
,, 9	More	Jones	Hicks Beach	Blaker

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 14th March, 1935.

	Div. Months.	Middle Price 27 Feb. 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	115½	3 9 3	3 0 5
Consols 2½%	JAJO	88½	2 16 6	—
War Loan 3½% 1952 or after	JD	106⅝	3 5 8	3 0 4
Funding 4% Loan 1960-90	MN	118½	3 7 6	2 18 10
Funding 3% Loan 1959-69	AO	105	2 17 2	2 14 5
Victory 4% Loan Av. life 29 years	MS	114¾xd	3 9 8	3 4 3
Conversion 5% Loan 1944-64	MN	122½	4 1 8	2 1 0
Conversion 4½% Loan 1940-44	JJ	113	3 19 8	2 2 11
Conversion 3½% Loan 1961 or after	AO	107xd	3 5 5	3 2 1
Conversion 3% Loan 1948-53	MS	105½	2 16 10	2 10 0
Conversion 2½% Loan 1944-49	AO	102¼xd	2 8 10	2 4 4
Local Loans 3% Stock 1912 or after	JAJO	96¾	3 2 0	—
Bank Stock	AO	366½	3 5 6	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	90	3 1 1	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	114	3 18 11	3 6 0
India 3½% 1931 or after	JAJO	97½	3 11 10	—
India 3% 1948 or after	JAJO	87½	3 8 7	—
Sudan 4½% 1939-73 Av. life 27 years	FA	122	3 13 9	3 5 3
Sudan 4% 1974 Red. in part after 1950	MN	117	3 8 5	2 13 6
Tanganyika 4% Guaranteed 1951-71	FA	116	3 9 0	2 15 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	112	4 0 4	2 12 2
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 4 10
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	103	3 12 10	3 9 5
Canada 4% 1953-58	MS	111	3 12 1	3 3 8
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	101	2 19 5	2 17 9
†Nigeria 4% 1963	AO	116	3 9 0	3 3 0
*Queensland 3½% 1950-70	JJ	103	3 8 0	3 4 10
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	98	3 1 3	—
*Croydon 3% 1940-60	AO	101	2 19 5	2 15 3
Essex County 3½% 1952-72	JD	108	3 4 10	2 18 4
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	109	3 4 3	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	86½	2 17 10	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	98	3 1 3	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	101	2 19 5	2 18 11
* Do. do. 3% "B" 1934-2003	MS	99	3 0 7	3 0 8
Do. do. 3% "E" 1953-73	JJ	103	2 18 3	2 15 8
†Middlesex County Council 4% 1952-72	MN	116	3 9 0	2 17 0
† Do. do. 4½% 1950-70	MN	118	3 16 3	3 1 3
Nottingham 3% Irredeemable	MN	99	3 0 7	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 2
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	112½	3 11 1	—
Gt. Western Rly. 4½% Debenture	JJ	125½	3 11 9	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	130½xd	3 16 8	—
Gt. Western Rly. 5% Preference	MA	116½xd	4 5 10	—
Southern Rly. 4% Debenture	JJ	111½	3 11 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112⅔	3 11 1	3 5 10
Southern Rly. 5% Guaranteed	MA	129½xd	3 17 3	—
Southern Rly. 5% Preference	MA	116½xd	4 5 10	—

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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INVESTMENTS.

FREEHOLD.

	Income (Annual).
ACTON—29, GUNNERSBURY-LANE	£100
BATTERSEA—21-31, LATCHMERE-STREET	£224
BRIXTON—1-5, INDUSTRY-TERRACE	£153
BROMLEY—TWEEDY-ROAD	£100
CAMBERWELL—98-106, HARRIS-STREET	£195
CLAPHAM—117, HARTINGTON-ROAD	£125
115, 117, 119, PLOUGH-ROAD	£310
CROUCH END—44, COLERIDGE-ROAD	£337
DAGENHAM—137-9, BROAD-STREET	£50
EALING (WEST)—1-27, PRINCES-ROAD	£413
EAST HAM—6, VICARAGE-LANE	£80
EAST MOLESEY—100-102, WALTON-ROAD	£150
EPSOM—2, 4 and 6, MANOR GREEN-ROAD	£145 12s.
FOREST GATE—10, CAPEL-ROAD	£432
HAMPSTEAD—151, BROADHURST-GARDENS	£120
HOLBORN—BARHAM HOUSE, HANDEL-STREET	£1,283
HOLLOWAY—125, GROVE-ROAD	£260
ILFORD—30, ILFORD-HILL	£250
KENSAL RISE—697, HARROW-ROAD	£221
KENSINGTON—59, MARLOES-ROAD	£162
LEE—1, MANOR PARK-PARADE	£85
REAR 1-8, MANOR PARK-PARADE	£136 10s.
LIMEHOUSE—44-44A, GRENADE-STREET	£650
NORWOOD (UPPER)—29, WESTOW-STREET	£150
NORWOOD (SOUTH)—4, 6 and 8, SOUTH NORWOOD HILL	£181
NOTTING HILL—30, UXBRIDGE-STREET	£117
PADDINGTON—80, KENSAL-ROAD	£300
98-100, KENSAL-ROAD	£750
PLAISTOW—2A, CLEGG-STREET	£60
104, PLASHET-ROAD	£225
ROMFORD—122, SEYMER-ROAD	£120
SIDCUP—10, BIRKBECK-ROAD	£90
SYDENHAM—IVYDENE, NEWLANDS PARK	£65
WESTCOTT, NEWLANDS PARK	£78
17-19, SYDENHAM-ROAD	£400
294-296, SYDENHAM-ROAD	£175 18s.
WANDSWORTH—33, WEST HILL	£250
WIMBLEDON—WIMBLEDON PARK FARM	£208
WINCHMORE HILL—28, BROADWAY	£130
WOOD GREEN—95-101, TOLLINGTON PARK	£324 6s.
FACTORY, REDVERS-ROAD	£715

FREEHOLD GROUND RENTS.

FOREST HILL—1-30, CHAPLIN-STREET	£40
NORWOOD (SOUTH)—2, SOUTH NORWOOD HILL	£6

LEASEHOLD.

ACTON—13, ACTON VALE	£95
BLACKHEATH—2A, GROTE'S-PLACE	£131
BRIXTON—6-8, INDUSTRY-TERRACE	£327
16-20, INDUSTRY-TERRACE	£166
BROMLEY—10, POPES-ROAD	£68
CRICKLEWOOD—2, SKARDU-ROAD	£75
DAGENHAM—9, CHEQUERS-PARADE	£220
EALING—4, CLOVELLY-ROAD	£75
FINCHLEY (NORTH)—2, WOODSIDE PARK-ROAD	£67
FOREST GATE—107, FOREST-LANE	£65
FOREST HILL—7, SUNDERLAND-ROAD	£130
GREENWICH—50, BLACKWALL-LANE	£60
HARROW—1, ST. KILDA'S-ROAD	£120
ILFORD—47A, WANSTEAD PARK-ROAD	£65
NEW CROSS—3-5, EGMONT-STREET	£104
PADDINGTON—250, SHIRLAND-ROAD	£126
PLUMSTEAD—18, 20, 22, CAMROSE-STREET	£174 10s.
PUTNEY—281, PUTNEY BRIDGE-ROAD	£162
SYDENHAM—1, HOMECROFT ROAD	£25

VACANT POSSESSION.

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39, HIGH-ROAD.
VALUABLE FREEHOLD BLOCK OF FACTORY AND OFFICE BUILDINGS, GARAGE, YARDS AND RAILWAY SIDINGS. SITE AREA 57,000 SQ. FT.

ILFORD.
IMA HOUSE, HIGH-ROAD.
A VALUABLE FREEHOLD HOUSE.
FRONTAGE 58 FEET. DEPTH 100 FEET.
SUITABLE FOR SHOP PREMISES.

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MANOR DAIRY, UPPER MULGRAVE-RD.
CORNER SHOP WITH LIVING ACCOMMODATION OVER AND A VALUABLE SITE.

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ACCOMMODATION FOR 88 HORSES, AND FOUR FLATS, MESSROOM, WORKSHOP.

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TWO MAISONNETTES OVER.
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